S. 2227

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2227, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2242

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. NELSON) was withdrawn as a cosponsor of S. 2242, a bill to prevent and punish counterfeiting and copyright piracy, and for other purposes.

S. 2258

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2258, a bill to revise certain requirements for H–2B employers for fiscal year 2004, and for other purposes.

S. 2261

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2261, a bill to expand certain preferential trade treatment for Haiti.

S. 2266

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 2266, a bill to amend the Small Business Act to provide adequate funding for Women's Business Centers.

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 2266, supra.

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 2266, supra.

S. 2267

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 2267, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2267, supra.

S.J. RES. 19

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S.J. Res. 28, supra.

S. CON. RES. 81

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 326

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND (for himself and Ms. MIKULSKI):

S. 2269. A bill to improve environmental enforcement and security; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, I am delighted to join with my friend and colleague Senator MIKULSKI to introduce today the Environmental Enforcement and Security Act (EESA) of 2004. This bill will increase substantially enforcement of our Nation's environmental laws, increase environmentally related homeland security, and further protect our Nation's water supply from terrorist attack.

Our families and environment deserve communities free from intentional violators of environmental laws and terrorists who would attack our drinking water supplies.

With this dramatic new commitment to environmental enforcement and drinking water security, we will tell those who would intentionally harm us that we are coming after them.

The environment and health of our communities need vigorous prosecution of intentional violations of our Nation's environmental laws. The U.S. Environmental Protection Agency (EPA) Criminal Enforcement program investigates the most significant and egregious violators of environmental laws that pose a significant threat to human health and the environment. However, the number of EPA Criminal Enforcement Special Agents has remained constant for the last several years.

In addition, in our post-9/11 world, EPA Special Agents are needed for homeland security duties to detect, investigate and respond to terrorist threats involving chemical or biological hazards.

EPA Special Agents support the Department of Homeland Security, Federal Bureau of Investigation and the Department of Justice. EPA Special Agents are members of FBI Counter-Terrorism Response Teams and Evidence Response Teams.

However, with this new post-9/11 need to respond to the threat of terrorism, some are concerned that environmental violations may not be receiving the attention they deserve. A recent report by the EPA Inspector General, an internal review by the EPA Enforcement and Compliance Assurance program, and various media accounts tell how EPA needs more resources to meet both its environmental and homeland security duties.

Our bill responds to these calls with a dramatic new commitment to EPA's enforcement program. My bill will put 50 new EPA Criminal Enforcement Special Agents on the environmental beat. EESA will also provide for 80 Special Agents to support homeland security duties.

With our bill, we will no longer need to make a choice between protecting our homeland and protecting our environment.

With out bill, those who would intentionally hurt our families and communities through environmental harm will know that we are sending the manpower and resources needed to come after them.

We are also sending local communities new funding to protect our drinking water supplies. Every family and every business needs clean and safe drinking water. Every mother needs to know that when she turns on the tap in her kitchen sink, clean and safe water will come out.

That is why our bill devotes $100 million for additional drinking water security protections. EESA will send grant funds directly to water systems to protect against terrorist attack with fencing, intruder detection, access control and water monitoring. The need is great, but the federal government will attempt to do its share.

Our bill will also enhance EPA's ability to protect the environment and human health in several other ways. EESA will double the number of enforcement trainers and triple EPA's enforcement training budget. EESA funds will train Federal, State and local inspectors, law enforcement agents and prosecutors with the training they need to pursue environmental violations.

Our bill will also improve the environment by doubling compliance assistance funds to fill gaps in enforcement coverage, reach regulated facilities not visited by inspectors, and help the regulated community, especially small businesses, to understand EPA's complex and extensive regulatory requirements.

Our bill will also make EPA's enforcement actions more efficient and targeted by fully funding a strategic enforcement targeting program. EESA will enhance EPA's ability to target its enforcement actions to where the environment needs them most. Strategic targeting will also improve EPA's ability to identify and respond to increased noncompliance with environmental laws.

Our Nation's environmental laws exist to protect our families, our communities and our natural resources. Those who would intentionally violate our environmental laws deserve the full force of the government to stop them.

Our families and communities also deserve our most vigorous efforts to protect them from the specter of terror. Chemical and biological threats represent one of the most sinister means for men to terrorize each other.

We will send our homeland security agencies the environmental expertise and personnel they need to confront these threats.

We will also send our local communities new help for additional drinking water security protections.

Our environment deserves no less, our families deserve no less. I urge my colleagues to support passage and funding of the Environmental Enforcement and Security Act of 2004.

By Mr. DEWINE (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SCHUMER, Mr. SPECTER, Mr. FEINGOLD, Mr. LEAHY, and Mr. COLEMAN):

S. 2270. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I wish to talk this afternoon about a bill that my colleagues, Senator KOHL, Senator GRASSLEY, Senator FEINGOLD, Senator SPECTER, Senator SCHUMER, Senator LEAHY, Senator COLEMAN, and I are introducing, which is called the No Oil Producing and Exporting Cartels Act of 2004. We are introducing this bill to address the longstanding problem of foreign governments acting in the commercial arena to fix, allocate, and establish production and price levels of petroleum products.

Every consumer in America knows that gasoline prices have reached record highs over the last couple of weeks. The national average has reached a new record high for self-serve unleaded gas. That is approximately $1.80 per gallon. But over the last week in my home State of Ohio gas prices have been even higher. In Marietta, gas was $1.84; in Cleveland, $1.86; in Columbus, it topped out at $1.88 in some stations. Many analysts predict that prices could get as high as $2 per gallon, or higher, by the summer.

This is of particular interest to me because Ohio and the Midwestern States always seem to be hit especially hard by gas prices spikes. These spikes are acutely painful to persons who commute long distances and to those who live on fixed incomes such as the elderly.

What is the cause? Certainly there are many causes, but as we might expect, there are a number of factors at play. But there is surprising agreement among industry experts about the primary cause of high gas prices and that is the increase in imported crude oil prices.

We also know the biggest factor in setting crude oil prices is OPEC. The unacceptably high price of imported crude oil is a direct result of collusive agreements among OPEC nations to maintain the price of oil.

Despite the fact that gasoline prices are going through the roof, OPEC members met yesterday in Austria and decided to cut the output of oil even further. We have been through this process more than enough to know what that means for the American consumer. When demand is high and supplies are cut, that obviously means higher prices. That is exactly what OPEC did to us yesterday. It ripped off American consumers by raising gas prices even more.

this is an outrage. In fact, OPEC is probably the most notorious example of an illegal cartel in the world today, even at a time when it is widely understood that such conduct is counterproductive and ill-suited for our global economy. Supreme Court Justice Scalia in a recent case described collusion among competitors as ''the supreme evil of antitrust.'' Nation after nation has adopted antitrust enforcement principles that recognize the illegality of price fixing and output restrictions among competitors. In 1998, the Organization for Economic Cooperation and Development, then composed of twenty-nine member nations, issued a formal recommendation denouncing price fixing. OPEC's continued actions, in ongoing defiance of American and international antitrust principles, should not be tolerated.

Until now, however, OPEC has effectively received special treatment under U.S. antitrust laws—despite the fact that oil is a commodity that touches the lives of nearly every American consumer. It is time that we take steps to assure that oil is subject to the principles of the free market. The bill that we are introducing today would do just that and help in the fight to lower gas prices.

Senator KOHL and I have introduced this bill twice before—in 2000 and 2001. It is an idea whose time has come. The purpose of our NOPEC bill is simple—it would treat OPEC like any other cartel. If OPEC were a group of private companies colluding on prices, the executives could be prosecuted and sent to jail, and the firms would pay millions of dollars in fines or maybe even billions in fines. Unfortunately, however, for years enforcement has been constrained by two related court opinions.

In 1979, a Federal District Court found that OPEC's price-setting decisions were ''governmental'' acts and accordingly that they were given sovereignty status and protected by the Foreign Sovereign Immunities Act. Subsequently, in 1981, a Federal Court of Appeals declined to consider the appeal of that antitrust case based on the so-called ''act of state'' doctrine.

NOPEC would effectively reverse these decisions by making it clear that OPEC's activities are not protected by sovereign immunity and that the Federal courts should not decline to hear such a case based on the ''act of state'' doctrine. As a result, under NOPEC, the Department of Justice and the Federal Trade Commission could bring a legal antitrust enforcement action against foreign states engaging in the restraint of trade regarding oil and other petroleum products. Simply put, NOPEC assures that our U.S. antitrust agencies have jurisdiction and authority to bring such cases.

We don't intend to give up the fight for lower gasoline prices. Today, I want the members of OPEC to hear a message loud and clear—we won't quit fighting for American consumers. When OPEC wants to do business with America, it must abide by our antitrust laws.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Oil Producing and Exporting Cartels Act of 2004 '' or ''NOPEC''.

SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or

any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

Mr. KOHL. Mr. President, in recent weeks, consumers all across the Nation have watched gas prices rise, seemingly without any end in sight. On March 24, U.S. gasoline prices reached a record high average of $ 1.74 a gallon. And, if consumers weren't paying enough already, just yesterday the OPEC nations decided to cut production by a million barrels a day, an action sure to drive prices even higher. Such blatantly anti-competitive action by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated. It is for this reason that I rise today, with my colleagues Senators DEWINE, SPECTER, LEAHY, FEINGOLD, SCHUMER, COLEMAN and GRASSLEY, to reintroduce the ''No Oil Producing and Exporting Cartels Act'' (''NOPEC''). This legislation is identical to our NOPEC bill introduced in the last two Congresses, a bill which passed the Judiciary Committee unanimously in 2000.

Real people suffer real consequences every day in our nation because of OPEC's actions. Rising gas prices are a silent tax that takes hard-earned money away from Americans every time they visit the gas pump. Higher oil prices drive up the cost of transportation, harming thousands of companies throughout the economy from trucking to aviation. And those costs are passed on to consumers in the form of higher prices for manufactured goods. Higher oil prices mean higher heating oil and electricity costs. Anyone who has gone through a Midwest winter or a deep South summer can tell you about the tremendous personal costs associated with higher home heating or cooling bills.

We have all heard many explanations offered for rising energy prices. Some say that the oil companies are gouging consumers. Some blame disruptions in supply. Others point to the EPA requirement mandating use of a new and more expensive type of ''reformulated'' gas in the Midwest or other ''boutique'' fuels around the country. Some even claim that refiners and distributors have illegally fixed prices. On this issue, Senator DEWINE and I have asked the Federal Trade Commission to investigate these allegations. As a result of our inquiries, the FTC has put a task force in place to find out if those allegations were true. While we continue to urge the FTC to be vigilant, the FTC has to date found no evidence of illegal domestic price fixing as a cause of higher gas prices.

But one cause of these escalating prices is indisputable: the price fixing conspiracy of the OPEC nations. For years, this conspiracy has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. NOPEC will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. It will authorize the Attorney General or FTC to file suit under the antitrust laws for redress. Our bill will also make plain that the nations of OPEC cannot hide behind the doctrines of ''Sovereign Immunity'' or ''Act of State'' to escape the reach of American justice.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Some critics of this legislation have argued that suing OPEC will not work or that threatening suit will hurt more than help. I disagree. Our NOPEC legislation will, for the first time, enable our authorities to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. government has ever had to deter OPEC from its seemingly endless cycle of price increases.

There is nothing remarkable about applying U.S. antitrust law overseas. Our government has not hesitated to do so when faced with clear evidence of anti-competitive conduct that harms American consumers. A few years ago, for example, the Justice Department secured record fines totaling $725 million against German and Swiss companies engaged in a price fixing conspiracy to raise and fix the price of vitamins sold in the United States and elsewhere. Their behavior harmed consumers by raising the prices consumers paid for vitamins every day and plainly needed to be addressed. As this and other cases show, the mere fact that the conspirators are foreign nations is no basis to shield them from violating these most basic standards of fair economic behavior.

Even under current law, there is no doubt that the actions of the international oil cartel would be in gross violation of antitrust law if engaged in by private companies. If OPEC were a group of international private companies rather than foreign governments, their actions would be nothing more than an illegal price fixing scheme. But OPEC members have used the shield of ''sovereign immunity'' to escape accountability for their price-fixing. The Foreign Sovereign Immunities Act, though, already recognizes that the ''commercial'' activity of nations is not protected by sovereign immunity. And it is hard to imagine an activity that is more obviously commercial than selling oil for profit, as the OPEC nations do. Our legislation will correct one erroneous twenty-year-old lower federal court decision and establish that sovereign immunity doctrine will not divest a U.S. court from jurisdiction to hear a lawsuit alleging that members of the oil cartel are violating antitrust law.

In the last few weeks, I have grown more certain than ever that this legislation is necessary. Between OPEC's decision yesterday to cut oil production and the FTC's conclusion for the last several years that there is no illegal conduct by domestic companies responsible for rising gas prices, I am convinced that we need to take action, and take action now, before the damage spreads too far.

For these reasons, I urge that my colleagues support this bill so that our nation will finally have an effective means to combat this selfish conspiracy of oil-rich nations.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, Mr. CORZINE, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. BOXER):

S. 2271. A bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Clean Cruise Ship Act of 2004. I am proud to be joined by Senators LAUTENBERG, CORZINE, FEINSTEIN, KENNEDY and BOXER in offering this legislation. I also am honored to be working with Congressman FARR, who is leading companion legislation

in the House and is a co-chair of the House Oceans Caucus.

America's oceans span nearly 4.5 million square miles, an area 23 percent larger than the nation's land area. They are a resource for travel, commerce, recreation and the global ecosystem. They comprise 70 percent of our planet.

We cannot continue to take this vast resource for granted. The Pew Commission found in June 2003 that our oceans are in crisis. The report cites five priorities: implementing a sustainable national ocean policy; coordinating the governance of ocean resources; reorienting our fisheries policy to emphasize sustainability; protecting ocean habitat and managing coastal development; and controlling the sources of pollution threatening our marine ecosystems. Today I want to concentrate on the fifth priority: controlling pollution.

With growing amounts of pollution caused by human activity, we are significantly degrading the marine environment. According to the EPA, pollution has rendered 44 percent of tested estuaries and 12 percent of ocean shoreline miles unfit for swimming, fishing or supporting aquatic life. The Coast Guard estimates that marine debris is responsible for the deaths of more than 1 million birds and 100,000 marine mammals each year. About 90 percent of Florida's coral reefs are believed to be dead or dying.

We have taken some actions to protect our oceans, but we still have a long way to go. We need to improve enforcement of our existing environmental protection laws, but we also need to update them to accommodate for the changing times.

Specifically, we need to address pollution from passenger cruise ships. The cruise line industry has grown significantly over the past 34 years. In 1970, cruise ships carried 500,000 passengers in the United States. In 2002, the cruise line industry carried 6.5 million passengers in about 150 ships in the United States, and that number has continued to grow.

In addition to a tremendous increase in the number of passengers, cruise ships themselves have grown. Today the average cruise vessel accommodates 3,100 passengers and crew. Carnival recently built the largest passenger ship in the world, the Queen Mary 2: it's 1,132 feet long, which is more than twice as long as the Washington Monument is tall; it is 236 feet high, about the height of a 23-story building; and it weights about 151,400 long tons, the rough equivalent of 390 fully loaded 747 jets.

According to the EPA, a typical 3,000 passenger cruise ship each week generates 210,000 gallons of sewage; 1 million gallons of gray water, including runoff from baths, laundry machines and dishwashers; and 37,000 gallons of oily bilge water. Ships of the size of cruise vessels today, which generate the amount of waste of today, did not exist when the Clean Water Act and other environmental laws were written in the 1970s. Therefore, our laws regarding cruise ships are grossly inadequate.

My colleagues may be shocked to learn that it is legal to dump raw sewage 3 miles from shore; and it is legal to dump sewage within 3 miles so long as it is run through a machine, which complies with a standard that is over 20 years old and which is never rigorously tested once installed. Also it is legal to dump gray water—which can contain harmful toxins and nutrients—anywhere in the ocean. Only Alaskan waters are protected by strong federal legislation enacted in 2000 that regulates sewage and graywater.

The legislation I am introducing today,the Clean Cruise Ship Act of 2004, would draw from key provisions of the federal law in place in Alaska and the Clean Water Act. This bill would: first, create a no discharge zone that would prevent dumping of sewage, graywater and oily bilge water within 12 miles of shore—to protect our coasts and estuaries; second, apply the current Alaskan standards to sewage and graywater discharges outside of 12 miles from shore; third, allow the Coast Guard and EPA to jointly issue discharge requirements based on the best available technology, with the goal of zero pollutants by 2015; and finally, strengthen enforcement.

Studies show that the Alaskan standards, which our bills applies to the rest of the country, can be achieved. Indeed, ships that have been upgraded to treat sewage and graywater with modern technology are easily meeting or exceeding standards for such constituents as fecal coliform and chlorine.

Not only is this bill technologically feasible: it is affordable. The cost to upgrade each ship will be more than $3 million. To put this into context, Carnival Cruise Lines just spent $800 million to build the new Queen Mary 2, and earned $6.7 billion in revenues last year.,

The Clean Cruise Ship Act of 2004 is a reasonable approach to an urgent problem. I urge my colleagues to support this important legislation.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 2272. A bill to amend title XIX of the Social Security Act to expand the pediatric vaccine distribution program to include coverage for children administered a vaccine at a public health clinic or Indian clinic, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, in conjunction with Senator SMITH, I am introducing the ''Children's Vaccine Access Act of 2004.'' This legislation makes three changes to the Vaccines for Children program with the intent of expanding access and the delivery of vaccines to our Nation's children. This legislation is supported by the Administration and included in the Administration's budget as recommended by the Centers for Disease Control and Prevention, or CDC.

First, the legislation expands access to the Vaccines for Children, or VFC, program for children whose private health insurance does not cover immunizations by allowing children to receive their VFC vaccines at State and local public health clinics. Currently, underinsured children must go to specially designated Federal Qualified Health Centers or rural health centers to receive VFC vaccines. Consequently, our bill expands the number of access points at which children can get the vaccines they need.

According to the CDC, there are approximately 3,000 Federally Qualified Health Centers enrolled in VFC, compared with approximately 7,000 health department clinics. As the CDC notes, ''Increasing access points for VFC eligible underinsured children will allow those who may have been previously denied immunizations at public health clinics to be vaccinated with the full series of routinely administered vaccines.''

Second, the bill seeks to restore the tetanus and diphtheria vaccines to the VFC program by lifting the 1993 price caps that were in use prior to enactment of the VFC program. The price caps are so low that, for example, the tetanus booster vaccine was unfortunately dropped from VFC coverage when no vaccine manufacturer would bid on the contract at the 1993-imposed price cap levels.

CDC estimates that over 200,000 additional children would be served through VFC with these two changes.

And finally, the bill includes new authorizing language to allow the CDC to sell the VFC purchased stockpile vaccines to its grantees or back to manufacturers for use in the private sector in the event that the stockpiled vaccines are needed by non VFC-eligible children.

Immunizations are critical to both children's health and the public health care system. The VFC program began on October 1, 1994, to improve vaccine availability to children nationwide by providing vaccines free-of-charge to Medicaid-eligible, uninsured, underinsured, American Indian, or Alaska Native children through both public and private providers. The VFC program automatically covers vaccines recommended by the Advisory Committee on Immunization Practices, or ACIP, and approved by the CDC.

VFC has had an enormous impact on improving the immunization rates among our Nation's children. According to the Children's Defense Fund, ''Between 1993 and 1999, there was nearly a 20 percent increase in the number of fully immunized two year-olds.''

However, the goal of achieving a 90 percent immunization coverage rate, with the complete series of recommended vaccines, has still not been achieved. According to the National Immunization Survey (NIS), the nationwide vaccination coverage levels

among children 19–35 months of age for the 4:3:1:3:3 series of childhood immunizations was 74.8 percent in 2002. Unfortunately, the immunization rate in New Mexico was just 64.6 percent in 2002 and second worst in the Nation to only Colorado. To address that problem, in December 2001, I requested the CDC to work with the State of New Mexico on improving its immunization rate and a number of positive developments have taken place, including the creation of an Immunization Task Force at the state level and the passage of legislation to create an immunization registry by the New Mexico Legislature this past month.

It is my belief that the strides the Nation and New Mexico continue to make to further improve the childhood immunization rate is assisted by this legislation. I would like to thank the CDC for their fine work on the VFC program and their assistance with this legislation and in its assistance directly to the State of New Mexico. I would also like to thank Senator SMITH for his dedication and support for this initiative to improve the health of our Nation's children.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Vaccine Access Act of 2004''.

SEC. 2. EXPANSION OF DEFINITION OF FEDERALLY VACCINE-ELIGIBLE CHILD.

(a) IN GENERAL.—Section 1928(b)(2)(A)(iii)(I) of the Social Security Act (42 U.S.C. 1396s(b)(2)(A)(iii)(I)) is amended by striking ''or a rural health clinic (as defined in section 1905(l)(1))'' and inserting '', a rural health clinic (as defined in section 1905(l)(1)), or a State or local public health clinic''.

(b) CONFORMING AMENDMENT.—Section 1928(h)(3) of the Social Security Act (42 U.S.C. 1396s(h)(3)) is amended by striking ''and 'tribal organization' '' and inserting '', 'tribal organization', and 'urban Indian organization' ''.

SEC. 3. REPEAL OF PRICE CAP FOR PRE-1993 VACCINES.

(a) IN GENERAL.—Section 1928(d)(3)(B) of the Social Security Act (42 U.S.C. 1396s(d)(3)(B)) is repealed.

(b) CONFORMING AMENDMENT.—Section 1928(d)(3) of such Act (42 U.S.C. 1396s(d)(3)) is amended by striking subparagraph (C) and inserting the following:

''(B) NEGOTIATION OF DISCOUNTED PRICE.—With respect to contracts entered into for a pediatric vaccine described in this section, the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary.''.

SEC. 4. SIMPLIFIED ADMINISTRATION OF VACCINE SUPPLY.

Section 1928(d)(6) of the Social Security Act (42 U.S.C. 1396s(d)(6)) is amended by inserting after the second sentence the following: ''The Secretary may sell such quantities of vaccines from such supply to public health departments or back to the vaccine manufacturer as the Secretary determines appropriate. Proceeds received from such sales shall be available to the Secretary only for the purpose of procuring pediatric vaccines stockpiles under this section and shall remain available until expended.''.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2004.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. BIDEN, Mr. CARPER, and Mr. LAUTENBERG):

S. 2273. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am joined by Senator HOLLINGS and other members of the Senate Commerce Committee in introducing the Rail Security Act of 2004.

The recent attacks on Madrid's commuter rail system demonstrated all too vividly that our own transit system, Amtrak, and the freight railroads could be vulnerable to terrorist attack. Only modest resources have been dedicated to rail security since the September 11, 2001 terrorist attacks on the United States, and efforts to address rail security remain fragmented. The Department of Homeland Security (DHS) has not completed a vulnerability assessment for the rail system, nor is there an integrated security plan that reflects the unique characteristics of passenger and freight rail operations.

The legislation we are introducing today would authorize resources to ensure rail transportation security receives a high priority in our efforts to secure our country from terrorism. The legislation directs DHS to complete a vulnerability assessment for the rail system and make recommendations for addressing security weaknesses within 180 days of enactment. It also authorizes funding to address long-standing fire and life safety needs for several tunnels along the Northeast Corridor, and authorizes appropriations to meet immediate security needs for intercity and freight rail transportation. Further, as recommended by the General Accounting Office, the proposal requires DHS to sign a memorandum of agreement with the Department of Transportation to make clear each department's roles and responsibilities with respect to rail security.

The freight railroads, individual commuter authorities, and Amtrak have, on their own initiative, completed risk assessments and taken steps to safeguard passengers, facilities, and cargo. These efforts, accomplished at a very small cost to the federal government, have helped make our rail system safer. The legislation introduced today will augment these efforts and bring these individual initiatives together in a coordinated rail security program.

More than 2 years ago, in the aftermath of the September 11th attacks, the Commerce Committee reported rail security legislation but unfortunately that proposal was not adopted by the full Senate. The Commerce Committee will meet in the coming weeks to consider this legislation and it is my hope that the proposal will be acted upon quickly by the full Senate.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rail Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rail transportation security risk assessment.
Sec. 3. Rail security.
Sec. 4. Study of foreign rail transport security programs.
Sec. 5. Passenger, baggage, and cargo screening.
Sec. 6. Certain personnel limitations not to apply.
Sec. 7. Fire and life safety improvements.
Sec. 8. Transportation security.
Sec. 9. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 10. System-wide Amtrak security upgrades.
Sec. 11. Freight and passenger rail security upgrades.
Sec. 12. Department of Transportation oversight.
Sec. 13. Rail security research and development.
Sec. 14. Welded rail and tank car safety improvements.
Sec. 15. Northern Border rail passenger report.

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing rail carriers, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the

Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying weapon detection equipment;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term economic impact of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security) and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and mail on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE SAFETY IMPROVEMENTS.

(a) LIFE SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to tunnels on the Northeast Corridor in New York, N.Y., Baltimore, Md., and Washington, D.C.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006;

(C) $100,000,000 for fiscal year 2007;

(D) $100,000,000 for fiscal year 2008; and

(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;

(B) $10,000,000 for fiscal year 2006;

(C) $10,000,000 for fiscal year 2007;

(D) $10,000,000 for fiscal year 2008; and

(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, D.C. Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;

(B) $8,000,000 for fiscal year 2006;

(C) $8,000,000 for fiscal year 2007;

(D) $8,000,000 for fiscal year 2008; and

(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLAN REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matter the Secretary deems appropriate;

(f) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all life safety portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) seek financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels.

SEC. 8. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Under Secretary of Homeland Security for Border and Transportation Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. 10. SYSTEM-WIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, D.C.;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and meet the requirements of section 7(e)(2).

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $62,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of pressurized tank cars to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations; and

(8) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(d) TANK CAR REPLACEMENT INCENTIVE.—A grant under subsection (a)(5) may be for up to 15 percent of the cost of the modification or replacement of a pressurized tank car.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (4) of subsection (a).

(f) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $250,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 12. DEPARTMENT OF TRANSPORTATION OVERSIGHT.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security, including research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry toxic-inhalation chemicals; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation.

(c) ACCOUNTABILITY.—The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each railroad using continuous welded rail track to include procedures (in its program filed with the Administration) that improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the maximum dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration, in coordination with the National Transportation Safety Board, shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security.

By Ms. LANDRIEU:

S. 2274. A bill to expand and improve retired pay, burial, education, and other mobilization benefits for members of the National Guard and Reserves who are called or ordered to active duty, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise to introduce and send to the desk the 21st Century Citizen Soldier Benefits Act which I introduce on behalf of myself.

I thought I would take a moment this afternoon to outline the framework and the context of this bill because it has to do with our Armed Forces. It has to do with a very important component of our Armed Forces, which is our Guard and Reserve units, part of our total force, a very important part of that total force as I hope to outline.

This is an attempt to put before the Senate and the Congress a comprehensive bill—one that I find and I know people in Louisiana across party lines and in very energetic and enthusiastic ways support because the need is so great—to support our men and women in uniform, particularly our Guard and Reserve components.

If the war on terror is teaching us anything—and we are learning some tough lessons each and every day as we move forward through this war—we all know we cannot defend this Nation adequately without the strength provided by our National Guard and Reserves.

Since 9/11 when this country was attacked, the first time in this large measure since the attack on Pearl Harbor many years ago, over 355,000 guardsmen and reservists have been mobilized.

To give a grasp of that number, our Navy today, arguably the most powerful in the world, has 375,000 sailors. So in 2½ years, we have called up almost enough guardsmen and reservists to man every ship in the United States Navy. That is a lot of manpower and a lot of womanpower, and they deserve our very best effort. They are not just backfilling for Active Forces. They are serving on the front lines, as we have seen today how brutal those front lines can be. They are being wounded and killed just like our Active Forces. In fact, 97 of the 600 deaths in Iraq have been Guard and Reserve deaths.

Today 176,000 citizen soldiers wear the uniform full time, and that number, as I will show, is growing exponentially. By May 1, 40 percent of the

troops in Iraq will be members of the National Guard and Reserve. These are men and women who have full-time jobs, who are coaches, small business owners, policemen, firemen, State workers, and waiters and waitresses in our restaurants. They hold many jobs, but they are then called up. They take off their daily dress clothes and put on the uniform and go to the front lines to protect us.

In Louisiana, and I know this is true in Texas, thousands of men and women have been called up.

We have 3,051 reservists on active duty right now. Over 6,000 Louisiana reservists have been activated since 9/11. For many, their activation periods have unfortunately lasted, because of the demand on our troops, sometimes in excess of 18 months to 24 months. The 528th Engineering Battalion from Monroe, LA, recently deployed to Afghanistan, 500 Louisianans on their way serving already. Marine Reserve Company B of Bossier City, 150 Marines have just been put on alert for mobilization. Company B has already been mobilized before.

Last month, the Department of Defense put another 18,000 National Guardsmen on alert status, including 3,800 members from Louisiana's 256th Separate Infantry Brigade. I will be visiting their leaders on Monday, in Lafayette, LA, and be visiting with their families to talk about the separation that is going to occur and how we are doing as a nation, as a State, and as a community, to help them through this difficult time as they help, protect, and give us their very best in this war effort.

The National Guard and Reserve, as I said, make up now 45 percent of our forces. We simply cannot fight without them. Yet as I am going to explain, the benefits, their pensions, their compensation, their GI benefits, their retirement benefits, and even their burial benefits do not match with their level of service and do not match with the contribution they are, in fact, making.

I understand why because when the framework for the Guard and Reserves was initially put together, they were thought of as sort of a backup, as a filler.

They do other things as well other than, of course, fighting wars. They help our States mobilize at times of national and natural disasters. So I am clear, as are many of us, about why initially, as the Guard and Reserve was created and the framework developed, those rules and regulations were put into place back in the 1940s, in the 1960s, and in the 1970s.

In 2004, the times are different. The demands are great and they are meeting this challenge. As a Congress we need to meet them more than halfway.

Nearly 35,000 have been mobilized more than once. Imagine returning from Afghanistan, reuniting with your family, getting your business restarted, getting back into the desk you left before you went to serve, only to be told to get ready because you are leaving in another few months, get ready to ship out again.

We have a retention and recruiting crisis looming on the horizon. I would like to show the number of troops, reservists, who have been called up from 1953 through 1989, through the Berlin crisis of 1961, through the Cuban missile crisis, and the Vietnam war, we called up a total of 199,877, about 200,000, through all of this, three times in 40 years. Since 1990, in the last 14 years, we have called up 634,984—the Persian Gulf war, the intervention in Haiti, Bosnian peacekeeping, Operation Southern Watch, the Kosovo conflict, now our ongoing war on terrorism, which has many fronts, primarily in Afghanistan and in Iraq. That is unprecedented in terms of our recent history.

The question to us should be: Are we doing what we should as we are increasing our military budget substantially? I, for one, have supported each and every increase and almost argued in many instances for more money going to our military. What portion of that increase is going to the Guard and Reserve to make sure their pensions are intact, that when they retire their compensation is fair, that their families are cared for at least at a decent and adequate level while they serve us so magnificently and so beautifully? So we can see we are calling more and more on our Guard and Reserve.

I ask unanimous consent to have printed in the RECORD an excellent article that appeared in the Washington Post in January of this year by Mr. Vernon Loeb, a very excellent staff writer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21, 2004]

ARMY RESERVE CHIEF FEARS RETENTION CRISIS

(By Vernon Loeb)

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being ''masked'' temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

Lt. Gen. James R. Helmly said his staff is working on an overhaul of the reserve aimed in part at treating soldiers better and being more honest with them about how long they're likely to be deployed. Helmly said the reserve force bureaucracy bungled the mobilization of soldiers for the war in Iraq, and gave them a ''pipe dream'' instead of honest information about how long they might have to remain there.

''This is the first extended-duration war our Nation has fought with an all-volunteer force,'' said Helmly. ''We must be sensitive to that. And we must apply proactive, preventive measures to prevent a recruiting-retention crisis.''

Helmly said his staff is engaged in an overhaul of the reserve aimed at turning the Army's part-time soldiers into a top-flight fighting force that can handle the strains of the global war on terrorism. In a Pentagon briefing for defense reporters, Helmly outlined an array of planned changes and bluntly described the force he took over in May 2002 as being dominated by bureaucrats who often ignored soldiers' needs.

In a recent memo, Helmly said, he told his subordinates that he was ''really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. That will probably get me in trouble. But I told them, I want this stuff fixed.''

Reservists in Iraq have long complained about having to spend a year there with inadequate equipment, including a lack of body armor.

Most reservists went to Iraq last year on year-long mobilizations, with a belief that they would be required to spend only 6 months in the country. But they were abruptly informed in September that they would have to spend 12 months in Iraq, pushing the total length of many reservists' mobilizations to 16 months or longer.

Analysts inside and outside the military say these long overseas mobilizations could have the effect of driving reservists out of the military in droves once they begin returning from Iraq over the next several months. After that, the service will lift the ''stop-loss'' provisions that prohibit soldiers from quitting the reserve when their hitches are up.

Helmly said he has not been surprised by such criticism. ''The [Iraq] mobilization was so fraught with friction that it really put a bad taste in a lot of people's mouths,'' he said. ''We had about 10,000 who had less than 5 days' notice that they were going to be mobilized. Then we had about 8,000 who were mobilized, got trained up, and never deployed.''

''No sooner do the statues of Saddam Hussein start tumbling down, then the guidance was, start planning to demobilize everybody,'' Helmly said, only to find in July that a growing insurgency required remobilizing 4,000 to 5,000 of the 8,000 that were initially mobilized but never deployed.

''One lesson I have certainly learned . . . it is imperative that we communicate with our soldiers and their families in advance, and that we not set false expectations,'' Helmly said.

To that end, Helmly said, a ''major order culture change'' is taking place in the reserve so that reservists know, upon joining, that they will be called up to active duty for between 9 and 12 months every 4 to 5 years.

As part of that change, he said, the current total of 2,091 reserve units will be reduced significantly so that every unit—typically a support company of about 150 soldiers—is manned, equipped and ready to go to war, if necessary.

Currently, 226,000 soldiers would be necessary to man all those units. But the Army Reserve is only authorized by Congress to have 205,000 soldiers, Helmly said, and at any given time, only between 160,000 and 175,000 of them are available for mobilization.

''We will in fact inactivate units beginning next year specifically to harvest the strength so we can man fully our remaining units,'' Helmly said, adding that maintenance and ''water support'' units will be reduced in favor of more military police, civil affairs and heavy truck transport detachments.

''I'm often asked by families, how do you know you'll be able to recruit for this force?'' Helmly said. ''There are no knowns; we're treading new virgin territory here. But most of our people will respond well to the initiatives we're putting forward. They don't wish to be part of a second-class team.''

Ms. LANDRIEU. According to this reporter:

The head of the Army Reserve said yesterday that the 205,000-soldier force must guard against a potential crisis in its ability to retain troops, saying serious problems are being ''masked'' temporarily because reservists are barred from leaving the military while their units are mobilized in Iraq.

He goes on to say:

Lieutenant General Helmly told his subordinates that he was ''really tired of going to see our reserve soldiers [and finding] they're short such simple things as goggles. It's about damn time you listen to your lawyers less and your conscience more. They will probably get me in trouble. But I told them, I want this stuff fixed.''

Not only are these men and women being called up in unprecedented numbers, not only are they being prevented from leaving, which is masking a potential readiness crisis, but they are also not being provided with some of the basic tools, equipment, and body armor that they need to protect themselves; therefore, contributing to a state of unease.

Not that these guardsmen and reservists are not patriotic, not that they would not walk across hot coals, and in many instances they do every day to protect us, but we should at least be able to take these modest steps to make sure we are strengthening them and honoring their service to us.

The operations in Iraq, Afghanistan, and Kosovo are ongoing, with no end in sight. We do not know if emergent threats around the world will become real and embroil us in yet other military operations, partially because our Active Forces are stretched so thin we need to call up our Guard and Reserve, and yet because of this we could face a retention crisis.

As I said, the deployments are lengthy, the benefits and legal protections are not sufficient in many instances, and the equipment is lacking. So let us hope we can take steps through this legislation and others to fix this situation.

I hope the bill I offer today and sponsor today—and I look forward to many cosponsors joining on this bill—will improve the Guard and Reserve benefits, and legal protections. As I said, we are calling it the 21st Century Citizen Soldier Benefit Act.

We have had two major changes or improvements to the Guard and Reserve framework, one in 1940 and one in 1994. It is time, 10 years later, this year, 2004, with the unprecedented nature of their service, to step up this framework of support for our Guard and Reserve. It is time for Congress, in my opinion, to take a comprehensive look at the benefits and protections afforded to the members of the Guard and Reserve.

We have not done so since 1994. It is time that we do this. My bill does it in several ways.

First, we call for equal benefits for equal service in the area of burial benefits, for activated Guard and Reserve should be the same as Active Duty. Guardsmen and Reservists cannot be buried in national cemeteries unless they are killed in action. Think about that. A man or a woman serves not just for 6 months, but maybe 2 years, comes home, is called back to go again, dodges the bullets, gets past the landmines, perhaps is seriously injured but escapes unscathed and comes home after serving valiantly, and then is denied burial benefits because they were not ''killed in action.'' I think because of what they have done, it is time for us to give them the right opportunities for burial in our national cemeteries if they are serving the time that our Active Duty serve, with all the dignity that they would deserve in such a situation.

The bill does not authorize every member of the Guard and Reserve to these burial rights, but it is inconceivable why someone who fought overseas for our Nation cannot be buried with his or her comrades simply because one soldier was in the Reserve and one soldier was active—fighting side by side, same foxhole, same patrol, same landmine but yet not the same burial ground.

No. 2, we hope in this bill that guardsmen and reservists activated for 2 years should have active duty GI bill benefits—the GI bill, which is probably one of the best pieces of legislation this Congress has ever passed, it is referred to hundreds of time in speeches on and off the floor, and is one of the bills Americans generally know about, quote, and can say what it does. It has enabled millions of American troops to enroll in college when they returned from World War II. The GI bill created a bedrock of middle-class Americans. It was one of the cornerstones that helped us build the middle class, and it ushered in 50 years of unprecedented economic growth. Why? Because when people get good training and good education, their earning potential goes up and the contribution they can make to their community rises in a significant way.

Today, members of the Active-Duty Forces receive more in GI benefits than the Guard and Reserve personnel, and if the Guard and Reserve personnel weren't contributing in equal ways to our active duty, I would not be here arguing for them, but they are contributing in equal ways, putting their lives in danger. Our bill will allow them to participate more equally in the GI benefits.

The third part of this bill would seek to create parity between Reserve components and Active Duty in terms of their retirement age. Right now, Active Duty can leave the military once they serve 20 years. We think that is a great benefit. It is one of the attractions to the military service. Many of our military men and women serve honorably for 20 years and then retire to go off and have yet a second and third career, as lifespans continue to increase. We are proud of that. We believe and know they contribute in many ways even past their service.

But Guard and Reserve today cannot collect retirement until 60 years of age. This bill would reduce it to 55 years and end what is an unjust situation and help them. Hopefully it will address part of this retention issue by making these benefits more generous.

The fourth and I think one of the most important issues this bill seeks to address is ending the pay gap faced by guardsmen and reservists. Mr. President, I don't know if in Texas you have had a lot of people complain to you about this, but I sure have had people in Louisiana come up and say to me, Senator, I can't possibly understand how we would ask someone to put on their uniform, go to Iraq, and take a 40-percent, 30-percent, or 20-percent cut in pay, to put their life on the line while we enjoy all the benefits staying home here in a safe place here on the homefront. It is not that we have not had challenges right here on the homefront, but not to the same degree and intensity as we are finding on the front lines of the battlefield.

Yet the fact is, because there is no tax credit in our law right now and because it is not mandatory for employers—or the Federal Government, I might add, which is something Senator DURBIN and I have worked very hard on together—to maintain their salaries at the level before they leave, some of these guardsmen and reservists are actually taking a 30-percent or 40-percent cut in pay to serve us and to keep us safe. That means while they are making the sacrifice on the battlefield, which many of these men and women are willing to make, we are asking their spouses and their children to give up the car, sell the house, give up their college fund, and it is simply not fair in a country that has the resources we have. In this Congress we want to give tax credits to everybody in the world for everything under the sun. I don't know how we can't find the few hundreds of millions of dollars that it would take to give this tax credit to allow people to serve in the Guard and Reserve and just maintain their salary level while they serve so it doesn't put their families in jeopardy.

I am going to go visit our troops in Lafayette on Monday. I know the community comes together. I know the women, many of them, join together for bake sales and help out and pay each other's car payments. Sometimes the community pulls together to pay the mortgage on the house. I think that is wonderful and it is the good old American spirit. But I don't know if it is necessary, not when we are giving out tax credits to companies that are taking jobs overseas, not when we are giving out tax credits to people who make millions and are not putting on the uniform. The least we can do is help our businesses to write off what they would have as a voluntary compensation package to maintain this salary level for the men and women serving overseas to minimize the sacrifice made by their families here at home. It would also require the Federal Government to step up to the plate

and, as one of the largest employers in the Nation, to make sure those salaries are compensated.

Let me share stories, one or two, from these families. There was an April 22, 2003 article from USA Today that I will ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today, Apr. 22, 2003]

RESERVISTS UNDER ECONOMIC FIRE

WASHINGTON.—Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country.

But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

Four in 10 members of the National Guard or reserves lose money when they leave their civilian jobs for active duty, according to a Pentagon survey taken in 2000. Of 1.2 million members, 223,000 are on active duty around the world.

Concern is growing in Congress, and several lawmakers in both parties have introduced legislation to ease the families' burden.

Janet Wright says she ''sat down and cried'' when she realized how little money she and her children, Adelia, 5, and Carolyn, 2, would have to live on when her husband was sent to the Middle East. In his civilian job with an environmental cleanup company, Russell Wright makes $60,000 a year—twice what he'll be paid as a sergeant in the Marine Forces Reserve. Back in Hammond, La., his wife, who doesn't have a paying job, is pouring the kids more water and less milk. She is trying to accelerate Carolyn's potty training schedule to save on diapers.

She doesn't know how long she'll have to pinch pennies. Like his fellow reservists, Russell Wright has been called up for one year. He could be sent home sooner, or the military could exercise its option to extend his tour of duty for a second year. Even so, Janet Wright considers her family lucky: She can still pay the mortgage, and the children's pediatrician accepts Tricare, the military health plan.

Ray Korizon, a 23-year veteran with the Air Force Reserve and an employee of the Federal Aviation Administration, says his income will also be cut in half if his unit ships out. Korizon, who lives in Schaumburg, Ill., knows the financial costs of doing his patriotic duty from bitter experience. Before the Persian Gulf War in 1991, he owned a Chicago construction company with 26 employees. He was sent overseas for six months and lost the business.

Still, he never considered leaving the reserve. Korizon says he enjoys the work and the camaraderie. But he worries about whether his two kids can continue to see the same doctor when he shifts to military health coverage. ''It's hard to go out and do the job you want to do when you're worried about things back home,'' he says.

Once regarded as ''weekend warriors,'' they have become an integral part of U.S. battle plans. Call-ups have been longer and more frequent.

''The last time you'd see this type of mobilization activity was during World War II,'' says Maj. Charles Kohler of the Maryland National Guard. Of the Maryland Guard's 8,000 members, 3,500 are on active duty. Kohler knows several who are in serious financial trouble. One had to file for bankruptcy after a yearlong deployment, during which his take-home pay fell by two-thirds.

Stories like that are the result of a shift in military policy. Since the end of the Cold War, the ranks of the full-time military have been reduced by one-third. The Pentagon has increasingly relied on the nation's part-time soldiers. More than 525,000 members of the Guards and reserves have been mobilized in the 12 years since the Persian Gulf War. For the previous 36 years, the figure was 199,877.

The end of fighting in Iraq isn't likely to lessen the pressure on the Guard and reserves. They'll stay on with the regular military in a peacekeeping role. Nobody knows how long, but in Bosnia, Guard members and reservists are on duty seven years after the mission began.

Korizon, who maintains avionics systems on C–130 cargo planes, has been told his Milwaukee-based reserve unit may be called up for humanitarian missions.

Some of the specialists who are in the greatest demand—physicians and experts in biological and chemical agents—command six-figure salaries in civilian life. The average pay for a midlevel officer is $50,000 to $55,000.

''They were prepared to be called up. They were prepared to serve their country,'' Sen. Barbara Mikulski, D-Md., says. ''They were not prepared to be part of a regular force and be away from home 200 to 300 days a year.''

Concerns are growing on Capitol Hill. As the nation's reliance on the Guard and reserves has increased, ''funding for training and benefits simply have not kept up,'' says Republican Sen. Saxby Chambliss of Georgia, a member of the Armed Services Committee.

The General Accounting Office, Congress' auditing arm, is studying pay and benefits for Guard members and reservists. A report is due in September. Meanwhile, members of Congress are pushing several bills to ease the burden:

Closing the pay gap. Some employers make up the difference in salary for reservists on active duty. But many, including the federal government, do not. A bill sponsored by Democratic Sens. Mikulski, Dick Durbin of Illinois and Mary Landrieu of Louisiana would require the federal government to make up lost pay. Landrieu is doing that for one legislative aide who has been called up for active duty.

She has also introduced a bill to give private employers a 50% tax credit if they subsidize reservists' salaries.

Closing the health gap. Once on active duty, reservists, Guard members and their families are covered by Tricare.

But for the 75% of reserve and Guard families living more than 50 miles from military treatment facilities, finding physicians who participate in Tricare can be difficult.

A measure sponsored by Sen. Mike DeWine, a Republican from Ohio, would give reservists and Guard members the option of making Tricare their regular insurer or having the federal government pay premiums for their civilian health insurance while they are on active duty. Several senior Democrats, including Senate Minority Leader Tom Daschle of South Dakota and Sen. Edward Kennedy of Massachusetts, support the idea.

Keeping creditors at bay. The Soldiers and Sailors Relief Act caps interest rates on mortgages, car payments and other debts owed by military personnel at 6% while they are on active duty. But Sen. Lindsey Graham, a South Carolina Republican who is the Senate's only reservist, says the act doesn't apply to debts that are held in the name of a spouse who is not a member of the military. He plans to introduce legislation to cover spouses.

Despite a groundswell of support for troops, none of the bills is assured of passage. There's concern among some administration officials about the cost of some of the proposals. In addition, some at the Pentagon think morale would be hurt if some reservists end up with higher incomes than their counterparts in the regular ranks.

Ms. LANDRIEU. It starts:

Drastic pay cuts. Bankruptcy. Foreclosed homes. They aren't exactly the kind of challenges that members of America's military reserves signed up for when they volunteered to serve their country. But for many, the biggest threat to the home front isn't Saddam Hussein or Osama bin Laden. It's the bill collector.

And that is a shame. I think the two enemies mentioned before the bill collector are people we need to actually be focusing our attention on, bringing them to justice in one case and finding them in the other. I don't think our troops need to be worried about bill collectors back home, but that is the position we have them in because we have not acted, will not act, refuse to act in the face of giving everybody else tax credits, but we can't seem to find room in the budget for these 634,000 of our bravest.

I want to say for the record, in Louisiana, Janet Wright's husband Russell is in the Marine Reserves. He made $60,000 a year. Russell was activated. He will only make $30,000. Mrs. Wright says she started putting water in her children's cereal and hopes her daughter can be quickly potty trained to save on diapers. Mrs. Wright has to count every penny.

This family is from Hammond, LA. I just don't think this is right. I think we can do something about it, and this bill attempts to do that. A 50-percent tax credit to those employers to continue to pay their salaries to fill this pay gap is part of this bill.

One other point of the bill, and then a short conclusion. We put a cap on interest rates. Many of us have loans out for a variety of different purposes—automobiles, perhaps some business loans that have been made for our businesses, obviously mortgages. We put in an interest rate cap so when you are deployed, you don't have to pay more than a 6-percent rate. When rates were 20 percent and 25 percent, that made a lot of sense and it was a great benefit. But as rates are relatively low today, this bill would make a modest change to either have it at 6 percent or prime plus 1. Again, it is not a huge amount of money, but it could potentially save a family a few hundred dollars a year. It is the least we can do as part of trying to help them make ends meet while their primary breadwinner in most cases is the one deployed.

As Congress works to best give our military the tools they need to succeed in the 21st century, we must reinforce and increase the benefits and protections for our Reserves. We have asked so much of them, and they have met every challenge with excellence. As we saw unfolding on our television screens yesterday and today, we couldn't ask them to do more. The least we can do is to look at the package of benefits,

upgrade it where we can, make sacrifices in other areas of our budget, and fund them first. They are the ones who are protecting us at this time. When we can provide greater legal protections to ease the stress on the homefront, we must, when and where we can. Failure to act will just exacerbate retention challenges. It will undermine our efforts to succeed in our war on terror.

I introduce this bill today. I hope we can have a speedy hearing.

I ask my colleagues to join me in sponsoring this bill so we can have a great bipartisan effort. There are many other things we can so the Guard and Reserve really know we appreciate them, because we just do not take pictures with them but we actually put them in our budget.

I yield the floor.

By Ms. MIKULSKI (for herself, Mr. SPECTER, Mrs. MURRAY, Mrs. CLINTON, Ms. LANDRIEU, Mr. SCHUMER, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DAYTON):

S. 2275. A bill to amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes; to the Committee on Governmental Affairs.

Ms. MIKULSKI. Mr. President, today I rise on behalf of myself and Senators SPECTER, MURRAY, CLINTON, LANDRIEU, DAYTON, SCHUMER, DASCHLE and LIEBERMAN, to introduce the High-Risk Non-Profit Security and Safety Enhancement Act of 2004. This bill provides homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. This legislation is critical to help protect the ''soft targets'' of terrorism all over the United States.

We are all aware of recent terrorist attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey. These attacks by Al Qaeda on an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers, show its willingness to attack ''soft targets'' of all types in order to conduct its campaign of terror.

I want to make sure that our communities are protected and the buildings where citizens live, learn and work are as secure as possible to safeguard American lives from a potential terrorist attack. Local communities are on the front lines in our war against terrorism. This Congress must do its share to make sure that they do not have to bear the full cost of this war. This bill helps us do that by providing funds for security enhancements in buildings that Americans visit everyday and by providing local law enforcement with added support for the costs they incur in helping to guard these local buildings and community centers.

Specifically, this legislation will provide up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon very specific standards. Organizations wishing to receive security enhancements under this Act must demonstrate that they have experienced specific threats by international terrorist organizations, there were prior attacks against similarly situated organizations, there is vulnerability of the specific site, the symbolic value of the site as a highly recognized American Institution, or that they have a specific role in responding to terrorist attacks.

This bill allows the Department of Homeland Security to contract for security enhancements to help these high-risk non-profit organizations. These funds can only be used for security enhancements, such as concrete barriers, and ''hardening'' of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funding under this Act can never be used for enhancements that would only be reasonably necessary to protect from neighborhood crime.

This bill also helps our vital first responders, those who are on the frontline everyday helping to protect these ''soft targets.'' These men and women have the responsibility for protecting institutions against the possibility of terrorist attack, while they are also responding to the public safety needs of the entire community. By authorizing $50 million in grant funds for local police departments, this bill provides real relief to local law enforcement who bear the growing costs associated with providing heightened security to high-risk non-profits.

As a Nation our priority in fighting the war on terror is to be able to better detect, prevent and respond to acts of terrorism. This bill gets us one step closer to meeting those goals by helping vulnerable targets better detect and prevent terrorist attacks and by making sure that if terror strikes one of these facilities, security and safety measures are in place to protect the lives of those inside and around these buildings.

Nothing the Senate does is more important than providing America security and Americans safety. I urge my colleagues to support this legislation because it does exactly that. It makes sure that there is added security for these ''soft targets'' that Americans visit everyday and it adds funding to support the local police, fire and rescue workers who are the first responders when there is a threat to one of these organizations. In the battle to protect our Nation from terrorist attacks, we must be sure to provide assistance to these high-risk non-profit organizations that provide vital health, social, cultural, and educational services to the American people.

I know others share my concerns about protecting these ''soft targets'' in our war against terrorism and that is why the United Jewish Communities, the American Red Cross, United Way, the American Hospital Association, the American Association of Museums, the National Association of Independent Colleges and Universities (NAICU), American Jewish Congress, the Theatre Communications Group, and the YMCA of the USA are all united in supporting this legislation.

This bill not only supports homeland security, it supports hometown security, making our communities stronger and safer, and I encourage my colleagues to join me in supporting this legislation and ask unanimous consent to print in the RECORD a letter from organizations supporting this effort and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR THE HIGH-RISK NON-PROFIT SECURITY ENHANCEMENT ACT OF 2004, MARCH 29, 2004.

DEAR MEMBER OF CONGRESS: Before the recess—We are requesting that you sign-on as a co-sponsor of the High-Risk Non-Profit Security Enhancement Act of 2004, legislation to provide for homeland security assistance for high-risk non-profits to protect them against foreign terrorist attacks. The legislative language is attached to this e-mail.

As leaders of our nation's non-profit sector, we firmly believe there is a compelling public interest in protecting high-risk non-profit institutions from terrorist attacks that would disrupt the vital health, social, educational and spiritual services they provide to the American people, and threaten the lives and well-being of American citizens who operate, utilize, and live or work in proximity to such institutions.

The risk to such institutions since 9/11 is clear. Al Qaeda's willingness to attack targets of all types has been made readily apparent with attacks in the United States, Spain, Germany, Iraq, Tunisia, Kenya, Morocco, and Turkey, including an international Red Cross building, synagogues, train stations, hotels, airports, restaurants, night clubs, and cultural centers.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to 501(c)(3) organizations demonstrating a high risk of terrorist attack based upon: specific threats of international terrorist organizations, prior attacks against similarly situated organizations; the vulnerability of the specific site; the symbolic value of the site as a highly recognized American institution; or the role of the institution in responding to terrorist attacks. Federal loan guarantees would also be available to make loans accessible on favorable terms. Funds would be allocated by a new office in the Department of Homeland Security dedicated to working with high-risk non-profits nationwide.

The authorized amount of grants—$100 million—is a fraction of the assessed needs of high-risk non-profits, which is well in excess of $1 billion. However, in view of current budgetary constraints, supporters of this legislation have proposed a modest level of Federal assistance.

Applicant organizations would submit requests to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on risk—maximizing the number of institutions receiving security enhancements and technical assistance. Payments would be made directly to contractors.

Security enhancements would include items directly related to the international terrorist threat, such as concrete barriers, and ''hardening'' of windows and doors, as well as technical assistance to assess needs, develop plans, and train personnel. Funds could not be used for security equipment that would reasonably be necessary for protection from neighborhood crime.

The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Sincerely,

American Association of Museums.
American Association of Homes and Services for the aging.
American Hospital Association.
American Jewish Congress.
American Red Cross.
American Society of Association Executives.
American Symphony Orchestra League.
Association of Art Museum Directors.
Jewish United Fund/Jewish Federation of Metropolitan Chicago.
National Assembly of Health and Human Services Organizations.
National Association of Independent Colleges and Universities.
Theatre Communications Group.
UJA Federation of New York.
Union of Orthodox Jewish Congregations.
United Synagogue of Conservative Judaism.
United Way of America.
YMCA of the USA.

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''High Risk Nonprofit Security Enhancement Act of 2004''.

SEC. 2. FINDING.

Congress finds that there is a public interest in protecting high-risk nonprofit organizations from international terrorist attacks that would disrupt the vital services such organizations provide to the people of the United States and threaten the lives and well-being of United States citizens who operate, utilize, and live or work in proximity to such organizations.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish within the Department of Homeland Security a program to protect United States citizens at or near high-risk nonprofit organizations from international terrorist attacks through loan guarantees and Federal contracts for security enhancements and technical assistance;

(2) establish a program within the Department of Homeland Security to provide grants to local governments to assist with incremental costs associated with law enforcement in areas in which there are a high concentration of high-risk nonprofit organizations vulnerable to international terrorist attacks; and

(3) establish an Office of Community Relations and Civic Affairs within the Department of Homeland Security to focus on security needs of high-risk nonprofit organizations with respect to international terrorist threats.

SEC. 4. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

''SEC. 1801. DEFINITIONS.

''In this title:

''(1) CONTRACT.—The term 'contract' means a contract between the Federal Government and a contractor selected from the list of certified contractors to perform security enhancements or provide technical assistance approved by the Secretary under this title.

''(2) FAVORABLE REPAYMENT TERMS.—The term 'favorable repayment terms' means the repayment terms of loans offered to nonprofit organizations under this title that—

''(A) are determined by the Secretary, in consultation with the Secretary of the Treasury, to be favorable under current market conditions;

''(B) have interest rates at least 1 full percentage point below the market rate; and

''(C) provide for repayment over a term not less than 25 years.

''(3) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization that—

''(A) is described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

''(B) is designated by the Secretary under section 1803(a).

''(4) SECURITY ENHANCEMENTS.—The term 'security enhancements'—

''(A) means the purchase and installation of security equipment in real property (including buildings and improvements), owned or leased by a nonprofit organization, specifically in response to the risk of attack at a nonprofit organization by an international terrorist organization;

''(B) includes software security measures; and

''(C) does not include enhancements that would otherwise have been reasonably necessary due to nonterrorist threats.

''(5) TECHNICAL ASSISTANCE.—The term 'technical assistance'—

''(A) means guidance, assessment, recommendations, and any other provision of information or expertise which assists nonprofit organizations in—

''(i) identifying security needs;

''(ii) purchasing and installing security enhancements;

''(iii) training employees to use and maintain security enhancements; or

''(iv) training employees to recognize and respond to international terrorist threats; and

''(B) does not include technical assistance that would otherwise have been reasonably necessary due to nonterrorist threats.

''SEC. 1802. AUTHORITY TO ENTER INTO CONTRACTS AND ISSUE FEDERAL LOAN GUARANTEES.

''(a) IN GENERAL.—The Secretary may—

''(1) enter into contracts with certified contractors for security enhancements and technical assistance for nonprofit organizations; and

''(2) issue Federal loan guarantees to financial institutions in connection with loans made by such institutions to nonprofit organizations for security enhancements and technical assistance.

''(b) LOANS.—The Secretary may guarantee loans under this title—

''(1) only to the extent provided for in advance by appropriations Acts; and

''(2) only to the extent such loans have favorable repayment terms.

''SEC. 1803. ELIGIBILITY CRITERIA.

''(a) IN GENERAL.—The Secretary shall designate nonprofit organizations as high-risk nonprofit organizations eligible for contracts or loans under this title based on the vulnerability of the specific site of the nonprofit organization to international terrorist attacks.

''(b) VULNERABILITY DETERMINATION.—In determining vulnerability to international terrorist attacks and eligibility for security enhancements or technical assistance under this title, the Secretary shall consider—

''(1) threats of international terrorist organizations (as designated by the State Department) against any group of United States citizens who operate or are the principal beneficiaries or users of the nonprofit organization;

''(2) prior attacks, within or outside the United States, by international terrorist organizations against the nonprofit organization or entities associated with or similarly situated as the nonprofit organization;

''(3) the symbolic value of the site as a highly recognized United States cultural or historical institution that renders the site a possible target of international terrorism;

''(4) the role of the nonprofit organization in responding to international terrorist attacks; and

''(5) any recommendations of the applicable State Homeland Security Authority established under section 1806 or Federal, State, and local law enforcement authorities.

''(c) DOCUMENTATION.—In order to be eligible for security enhancements, technical assistance or loan guarantees under this title, the nonprofit organization shall provide the Secretary with documentation that—

''(1) the nonprofit organization hosted a gathering of at least 100 or more persons at least once each month at the nonprofit organization site during the preceding 12 months; or

''(2) the nonprofit organization provides services to at least 500 persons each year at the nonprofit organization site.

''(d) TECHNICAL ASSISTANCE ORGANIZATIONS.—If 2 or more nonprofit organizations establish another nonprofit organization to provide technical assistance, that established organization shall be eligible to receive security enhancements and technical assistance under this title based upon the collective risk of the nonprofit organizations it serves.

''SEC. 1804. USE OF LOAN GUARANTEES.

''Funds borrowed from lending institutions, which are guaranteed by the Federal Government under this title, may be used for technical assistance and security enhancements.

''SEC. 1805. NONPROFIT ORGANIZATION APPLICATIONS.

''(a) IN GENERAL.—A nonprofit organization desiring assistance under this title shall submit a separate application for each specific site needing security enhancements or technical assistance.

''(b) CONTENT.—Each application shall include—

''(1) a detailed request for security enhancements and technical assistance, from a list of approved enhancements and assistance issued by the Secretary under this title;

''(2) a description of the intended uses of funds to be borrowed under Federal loan guarantees; and

''(3) such other information as the Secretary shall require.

''(c) JOINT APPLICATION.—Two or more nonprofit organizations located on contiguous sites may submit a joint application.

''SEC. 1806. REVIEW BY STATE HOMELAND SECURITY AUTHORITIES.

''(a) ESTABLISHMENT OF STATE HOMELAND SECURITY AUTHORITIES.—In accordance with regulations prescribed by the Secretary, each State may establish a State Homeland Security Authority to carry out this title.

''(b) APPLICATIONS.—

''(1) SUBMISSION.—Applications shall be submitted to the applicable State Homeland Security Authority.

''(2) EVALUATION.—After consultation with Federal, State, and local law enforcement

authorities, the State Homeland Security Authority shall evaluate all applications using the criteria under section 1803 and transmit all qualifying applications to the Secretary ranked by severity of risk of international terrorist attack.

''(3) APPEAL.—An applicant may appeal the finding that an application is not a qualifying application to the Secretary under procedures that the Secretary shall issue by regulation not later than 90 days after the date of enactment of this title.

''SEC. 1807. SECURITY ENHANCEMENT AND TECHNICAL ASSISTANCE CONTRACTS AND LOAN GUARANTEES.

''(a) IN GENERAL.—Upon receipt of the applications, the Secretary shall select applications for execution of security enhancement and technical assistance contracts, or issuance of loan guarantees, giving preference to the nonprofit organizations determined to be at greatest risk of international terrorist attack based on criteria under section 1803.

''(b) SECURITY ENHANCEMENTS AND TECHNICAL ASSISTANCE; FOLLOWED BY LOAN GUARANTEES.—The Secretary shall execute security enhancement and technical assistance contracts for the highest priority applicants until available funds are expended, after which loan guarantees shall be made available for additional applicants determined to be at high risk, up to the authorized amount of loan guarantees. The Secretary may provide with respect to a single application a combination of such contracts and loan guarantees.

''(c) JOINT APPLICATIONS.—Special preference shall be given to joint applications submitted on behalf of multiple nonprofit organizations located in contiguous settings.

''(d) MAXIMIZING AVAILABLE FUNDS.—Subject to subsection (b), the Secretary shall execute security enhancement and technical assistance contracts in such amounts as to maximize the number of high-risk applicants nationwide receiving assistance under this title.

''(e) APPLICANT NOTIFICATION.—Upon selecting a nonprofit organization for assistance under this title, the Secretary shall notify the nonprofit organization that the Federal Government is prepared to enter into a contract with certified contractors to install specified security enhancements or provide specified technical assistance at the site of the nonprofit organization.

''(f) CERTIFIED CONTRACTORS.—

''(1) IN GENERAL.—Upon receiving a notification under subsection (e), the nonprofit organization shall select a certified contractor to perform the specified security enhancements, from a list of certified contractors issued and maintained by the Secretary under subsection (j).

''(2) LIST.—The list referred to in paragraph (1) shall be comprised of contractors selected on the basis of—

''(A) technical expertise;

''(B) performance record including quality and timeliness of work performed;

''(C) adequacy of employee criminal background checks; and

''(D) price competitiveness.

''(3) OTHER CERTIFIED CONTRACTORS.—The Secretary shall include on the list of certified contractors additional contractors selected by senior officials at State Homeland Security Authorities and the chief executives of county and other local jurisdictions. Such additional certified contractors shall be selected on the basis of the criteria under paragraph (2).

''(g) ENSURING THE AVAILABILITY OF CONTRACTORS.—If the list of certified contractors under this section does not include any contractors who can begin work on the security enhancements or technical assistance within 60 days after applicant notification, the nonprofit organization may submit a contractor not currently on the list to the Secretary for the Secretary's review. If the Secretary does not include the submitted contractor on the list of certified contractors within 60 days after the submission and does not place an alternative contractor on the list within the same time period (who would be available to begin the specified work within that 60-day period), the Secretary shall immediately place the submitted contractor on the list of certified contractors and such contractor shall remain on such list until—

''(1) the specified work is completed; or

''(2) the Secretary can show cause why such contractor may not retain certification, with such determinations subject to review by the Comptroller General of the United States.

''(h) CONTRACTS.—Upon selecting a certified contractor to provide security enhancements and technical assistance approved by the Secretary under this title, the nonprofit organization shall notify the Secretary of such selection. The Secretary shall deliver a contract to such contractor within 10 business days after such notification.

''(i) CONTRACTS FOR ADDITIONAL WORK OR UPGRADES.—A nonprofit organization, using its own funds, may enter into an additional contract with the certified contractor, for additional or upgraded security enhancements or technical assistance. Such additional contracts shall be separate contracts between the nonprofit organization and the contractor.

''(j) EXPEDITING ASSISTANCE.—In order to expedite assistance to nonprofit organizations, the Secretary shall—

''(1) compile a list of approved technical assistance and security enhancement activities within 45 days after the date of enactment of this title;

''(2) publish in the Federal Register within 60 days after such date of enactment a request for contractors to submit applications to be placed on the list of certified contractors under this section;

''(3) after consultation with the Secretary of the Treasury, publish in the Federal Register within 60 days after such date of enactment, prescribe regulations setting forth the conditions under which loan guarantees shall be issued under this title, including application procedures, expeditious review of applications, underwriting criteria, assignment of loan guarantees, modifications, commercial validity, defaults, and fees; and

''(4) publish in the Federal Register within 120 days after such date of enactment (and every 30 days thereafter) a list of certified contractors, including those selected by State Homeland Security Authorities, county, and local officials, with coverage of all 50 States, the District of Columbia, and the territories.

''SEC. 1808. LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.

''(a) IN GENERAL.—The Secretary may provide grants to units of local government to offset incremental costs associated with law enforcement in areas where there is a high concentration of nonprofit organizations.

''(b) USE.—Grant funds received under this section may be used only for personnel costs or for equipment needs specifically related to such incremental costs.

''(c) MAXIMIZATION OF IMPACT.—The Secretary shall award grants in such amounts as to maximize the impact of available funds in protecting nonprofit organizations nationwide from international terrorist attacks.

''SEC. 1809. OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.

''(a) IN GENERAL.—There is established within the Department, the Office of Community Relations and Civic Affairs to administer grant programs for nonprofit organizations and local law enforcement assistance.

''(b) ADDITIONAL RESPONSIBILITIES.—The Office of Community Relations and Civic Affairs shall—

''(1) coordinate community relations efforts of the Department;

''(2) serve as the official liaison of the Secretary to the nonprofit, human and social services, and faith-based communities; and

''(3) assist in coordinating the needs of those communities with the Citizen Corps program.

''SEC. 1810. AUTHORIZATION OF APPROPRIATIONS AND LOAN GUARANTEES.

''(a) NONPROFIT ORGANIZATIONS PROGRAM.—There are authorized to be appropriated to the Department to carry out the nonprofit organization program under this title, $100,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(b) LOCAL LAW ENFORCEMENT ASSISTANCE GRANTS.—There are authorized to be appropriated to the Department for local law enforcement assistance grants under section 1808, $50,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(c) OFFICE OF COMMUNITY RELATIONS AND CIVIC AFFAIRS.—There are authorized to be appropriated to the Department for the Office of Community Relations and Civic Affairs under section 1809, $5,000,000 for fiscal year 2005 and such sums as may be necessary for fiscal years 2006 and 2007.

''(d) LOAN GUARANTEES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 2005, 2006, and 2007, such amounts as may be required under the Federal Credit Act with respect to Federal loan guarantees authorized by this title, which shall remain available until expended.

''(2) LIMITATION.—The aggregate value of all loans for which loan guarantees are issued under this title by the Secretary may not exceed $250,000,000 in each of fiscal years 2005, 2006, and 2007.''.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.

The table of contents under section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding at the end the following:

''TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK NONPROFIT ORGANIZATIONS

''Sec. 1801. Definitions.
''Sec. 1802. Authority to enter into contracts and issue Federal loan guarantees.
''Sec. 1803. Eligibility criteria.
''Sec. 1804. Use of loan guarantees.
''Sec. 1805. Nonprofit organization applications.
''Sec. 1806. Review by State Homeland Security Authorities.
''Sec. 1807. Security enhancement and technical assistance contracts and loan guarantees.
''Sec. 1808. Local law enforcement assistance grants.
''Sec. 1809. Office of Community Relations and Civic Affairs.
''Sec. 1810. Authorization of appropriations and loan guarantees.''.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the High-Risk Non-Profit Security Enhancement Act of 2004 together with my colleague Senator MIKULSKI. Since 9/11, al-Qaida has attacked a series of so-called ''soft targets'' around the globe including hotels, synagogues, social centers and facilities of the Red

Cross. This grim reality is forcing such soft targets here in the United States to confront the need for very expensive security enhancements to their facilities. This legislation will help non-profit organizations—those soft targets least able to afford these security enhancements—to do the work that they need to do such as the building of concrete barriers and the ''hardening'' of windows and doors.

On February 11, 2003, CIA Director George Tenet provided the following testimony to the Senate Select Committee on Intelligence:

> Until al-Qaida finds an opportunity for the big attack, it will try to maintain its operational tempo by striking ''softer'' targets. And what I mean by ''softer,'' Mr. Chairman, are simply targets al-Qaida planners may view as less well protected. . . . Al-Qaida has also sharpened its focus on our Allies in Europe and on operations against Israeli and Jewish targets.

Also on February 11, 2003, FBI Director Robert S. Mueller testified as follows before the Senate Select Committee on Intelligence:

> Multiple small-scale attacks against soft targets—such as banks, shopping malls, supermarkets, apartment buildings, schools and universities, houses of worship and places of recreation and entertainment—would be easier to execute and would minimize the need to communicate with the central leadership, lowering the risks of detection.

The record has sadly confirmed the words of Directors Tenet and Mueller. Al-Qaida has been responsible for a series of attacks against soft targets including numerous synagogues, A Red Cross building, train stations, hotels airports, restaurants and night clubs. These targets have been in countries throughout the world including Spain, Germany, Iraq, Tunisia, Kenya, Morocco and Turkey.

In the face of this very real terrorist threat, these soft targets have an obligation to take the necessary steps to better protect themselves and all who visit their facilities. These additional security measures place an especially heavy burden upon non-profit corporations with limited resources. Effective security measures do not come cheap.

This legislation would authorize the Secretary of Homeland Security to make available in FY 2005 up to $100 million in assistance to non profits which demonstrate a high risk of terrorist attack. In choosing which projects to fund, the secretary will give preference to those non profit organizations he determines to be at the greatest risk of international terrorist attack based upon the following criteria:

(1) Specific threats of international terrorist organizations; (2) Prior attacks against similarly situated organizations; (3) The vulnerability of the specific site; (4) The symbolic value of the site as a highly recognized American institution; or (5) The role of the institution in responding to terrorist attacks.

Applicant organizations would submit request to state homeland security authorities that would identify and prioritize high-risk institutions. Qualifying requests would be forwarded to the Secretary of Homeland Security who would allocate resources based on his assessment of the risk. Payments would be made from the Department of Homeland security directly to the contractors who will do the work.

For those programs that do not get their security projects funded, Federal loan guarantees would also be available so that they can take out loans on favorable terms. The bill also authorizes $50 million for local police departments to provide additional security in areas where there is a high concentration of high-risk non-profits.

Mr. President, the threat of terrorism is placing an enormous burden on non-profit organizations that face a higher risk of terror attack due to their affiliation of function. This bill is an important step towards helping these non-profits meet these new and expensive security needs. It is my hope that my colleagues will join me in addressing this overlooked front in the war on terror.

By Mrs. BOXER:

S. 2276. A bill to allow the Secretary of Homeland Security to make grants to Amtrak, other rail carriers, and providers of mass transportation for improvements to the security of our Nation's rail and mass transportation system; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, two and a half years ago, the United States was caught unprepared when it came to aviation security. The results were devastating.

Since then, we have greatly improved our aviation security, and we have begun to improve our port security. We have a long way to go in both of these areas.

But, we have a longer way to go to secure our rail system—both passenger, freight, and local transit.

In October 2001, the Commerce Committee passed a rail security bill to authorize $1.77 billion over two years for Amtrak. We knew that the United States must not be caught off-guard when it comes to our passenger and freight rail systems.

Unfortunately, the bill never became law.

And, now, we have received another warning. In March, terrorists blew up commuter trains in Madrid killing nearly 200 people and injuring 1,400. We must heed this warning and address the vulnerability of America's rail systems. We must act now.

Today, I am introducing legislation that will authorize funding for more police, canine dogs, and surveillance equipment on Amtrak and local transit systems. The bill will authorize $500 million per year for five years. One-third of the funding will be spent on Amtrak based on passenger ridership and the remainder of the funding will be spent on securing rail and transit.

This is important for the entire nation, but it is especially important for California. California has the second highest Amtrak ridership in the country. Almost 9 million passenger trips began or ended in California during fiscal year 2003. Amtrak operates an average of 68 intercity and 300 commuter trains per day in California.

The freight rail system is also important for goods movement. California's ports receive over 40 percent of all of the goods that are shipped into the United States. Many of the imports are shipped by rail through California and to the rest of the nation. If there were a terrorist attack, the impact on our economy would be devastating.

Finally, local communities throughout California have mass transit systems. For example, Muni, in San Francisco, is the 7th largest transit system in the nation. There is light rail in Los Angeles, Sacramento, and San Diego. Livermore Amador Valley Transit Authority has buses that go directly to Lawrence Livermore National Laboratory, which has weapons research.

It is vitally important to ensure that our nation's entire transportation system is secure. It is time we stopped ignoring our rail systems.

By Mr. MCCAIN:

S. 2277. A bill to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing legislation to provide a technical correction that would once again allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Mariposa Indian Community (SRPMIC). A companion bill is being introduced today by Congressman HAYWORTH.

The SRPMIC located in Scottsdale, AZ, one of the most diversified economic development portfolios in Indian country. Blessed with a prime location in metropolitan Phoenix, the Tribe has nearly a dozen business enterprises including a sand and gravel operation, a cement company, two golf courses, and a shopping center. The tribe wants to continue diversifying their economy in the hopes of becoming economically self-sufficient. This legislation is intended to help them achieve this goal.

This bill would make technical corrections to title 215, U.S. Code, Section 416a(c) relating to ''binding arbitration of disputes.'' Recently, in an effort to consolidate and streamline various rules, regulations, and laws, some sections of Title 25, U.S. Code, Section 81 were repealed that affected the Bureau of Indian Affairs. An unintended consequence of this consolidation was that the definition for leases, which included sublease, substitute lease, and master lease, was altered. Simply put, this legislation would reinstate the

prior definition for leases on the reservation to include subleases, substitute leases, and master leases. Without this clarification, the tribe fears that potential tenants may be leery to invest on tribal land.

This legislation may seem minor, but it would go a long way toward helping the SRPMIC achieve the economic self-sufficiency it is working toward. Therefore, I urge my colleagues to support this legislation and work for its speedy passage.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. BREAUX):

S. 2279. A bill to amend title 46, United States Code, with respect to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, less than 1 year ago, we wrapped up work on the port security bill that was signed into law as the Maritime Security Act of 2002, MTSA. That act mandated and outlined changes that are needed to shore up security in our ports, and established for the first time a system to coordinate, plan and implement port security at U.S. seaports. While this was landmark legislation, much still needs to be done with respect to the implementation of the requirements mandated by this law.

I am very dissatisfied with the current Administration's disinterest in paying for port security, and would point out that we are approaching a crisis, as Federal mandates are being rolled out for security without Federal support. I have tried over and over to focus the attention of the Administration on this crucial need and pushed to no avail in the Senate to get the resources necessary to address this problem. But to date, I have gotten little support. In addition to appropriating much needed funds for port security, it has become apparent that keeping up with security needs at our ports is an ever evolving task, and that we may have to refocus our efforts and push harder to ensure that we coordinate our policies and maximize the limited resources that we have in this area.

Today, in order to keep up with these needs, I am introducing the ''Maritime Transportation Security Act of 2004'', along with Senator MCCAIN, and Senator BREAUX. I am pleased to have worked on this with Senator MCCAIN, the Chairman of our Committee, as I often remark, while he has no coastline, he has worked with those of us who do have ports to work on these crucial port security issues. I am also pleased to introduce this legislation with Senator BREAUX, for he has truly been one of the leading advocates of the importance of maritime shipping and the merchant marine in the U.S. Senate. He has done invaluable work for us on the Commerce Committee, and is a true expert in the field. He will be sorely missed for his expertise on all maritime issues, although I am sure, that in the future, he will still be the Captain of some small boat, yacht, or maybe even a ship.

Even though the Coast Guard, Customs and other agencies charged with the implementation of these measures have aggressively taken initial steps necessary to set up our future structure for seaport security there is still much to do, and effective action needs to occur to help coordinate and crystallize security policies and objectives. The Maritime Transportation Security Act of 2004 would attempt to mandate a coordinated Federal approach to several areas of concern in port security. It would also attempt to set performance standards for certain areas in port security and add a few enhancements to last year's legislation. Most importantly the bill would require a user fee to be established to help pay for the port security mandates.

Specifically, this bill would impose in rem liability to secure payment of penalties and fines under the Act and to help ensure compliance with the security requirements imposed by the MTSA. The bill would also include provisions to increase security in waterside cargo areas, and ensure that cargo contents of imported marine cargo containers would be required to be cleared within 5 days of entering a U.S. port, or alternatively removed after 5 days without being cleared, to a regulated warehouse where it would be opened and reviewed to verify its contents. This would in no way change any claim to possession of the goods. Importantly, the bill would require DHS to evaluate the policies and practices of sealing empty containers. According to the Federal Maritime Commission, over 4 million containers were imported into the United States empty. At a recent hearing, a representative from the ILWU longshoremen's union pointed out that treatment of empties and the sealing practices of these containers varied from locale to locale. This bill would require an analysis of current practices at U.S. ports in order to determine what steps need to occur in order to make sure that the transport of empty containers does not present a threat of terrorism, and whether a Federal policy is justified in this area.

The bill would require the Administration to produce a coordinated plan for collecting, analyzing, and disseminating maritime intelligence information collected by Federal agencies on ships, cargo, crew members and passengers. This intelligence is used to determine which ships, cargo, or crew warrant further inspection. This section of the bill requires further development of a maritime intelligence system to collect and analyze information concerning the crew, passengers and cargoes carried on vessels operating in waters under the jurisdiction of the United States. This mandate essentially restates existing law since it appears that the agencies have actually grown further apart since the passage of the Maritime Transportation Security Act. The provision in this bill would require a plan on how the Administration will coordinate collection and analysis of maritime information, and how agency personnel might be co-located to maximize resources and coordinate analysis. This plan must also indicate when long range vessel tracking will be integrated into this intelligence information. Additionally, the plan would require the government to analyze private sector resources to evaluate how they could be used to help monitor and differentiate legitimate moves of trade from those actions and players that are more suppositious. The Federal Government does not have a lot of experience monitoring commercial maritime activity, and I believe they will have to employ private sector expertise to assist in this endeavor.

The report shall also consider the abilities of the Department of Navy to collect and analyze commercial maritime information. The U.S. Navy probably has the most resources dedicated to the evaluation of commercial shipping activities, but are precluded from sharing this information. In light of our need for better information on commercial shipping, this policy has to be reevaluated. A maritime intelligence system needs to be set up to work together so that Federal agencies, State, local and the private sector can coordinate their law enforcement activities. Maritime intelligence on commercial ocean shipping is currently gathered by the Coast Guard, Customs, INS, and other agencies such as the Federal Maritime Commission under separate systems. Only the Coast Guard and the Navy currently work together. We lag far behind in this area, and each agency is operating independent of others. We are not getting the full picture of what is happening out there. It is crucial that we have the best information available so that we can target our relatively limited resources with maximum efficiency. Further, the information has to be disseminated in a fashion to maximize its utility, while still protecting that information which needs to be kept confidential. Collection and analysis of commercial maritime information is a key element of our port security that needs more focus and has to be addressed if we are to adequately protect our Nation.

Importantly, the bill will require the Administration to come up with cargo security plans to evaluate targeting systems to determine whether they are effective in deterring and protecting against potential acts of terrorism from cargo. In the event that targeting is inadequate protection, DHS would be required to increase the amount of cargo being non-intrusively inspected or x-rayed by two over the next year. The bill would also require the consolidation of intermodal cargo security programs that have the same security goals while establishing criteria and

performance goals for these security programs, which are currently operating completely independent of each other, and require certain other cargo security program enhancements. Voluntary cargo security programs are not the answer to the important problem of securing our Nation from terrorist attacks. Firm standards and goals must be in place to ensure that items that we know we don't want in marine containers are not actually in marine containers. The legislation will also require a report on the amount of actual inspections that are being done at foreign seaports.

While the Container Security Initiative was rolled out with great fanfare to work with foreign ports to inspect cargo before they get to U.S. ports, the question remains whether we are actually getting much bang for the buck. The fundamental question that needs to be addressed is whether foreign nations have been willing to use their security screening equipment for our benefit, and to what degree have they been willing to screen cargo for the benefit of our Nation. The legislation will require a report to determine whether this program needs adjustment, or is a cost-effective measure to ensure safe cargo movements into the U.S., and to update us on the progress in the installation of a system of radiation detection at U.S. ports.

Additionally, this legislation will redirect our efforts to help ensure that we can verify that security is in place to prevent an act of terrorism, and not place us in a position of having to rely on documentation and the attestations or documentation of third parties in order to determine whether we need to take actions to protect the public. The Administration has not even started to implement the certification program required to certify ''secure systems of transportation,'' 46 U.S.C. 70116, and they must get going on this vital initiative. Otherwise, it would only take one good liar to breach our system of defense. Although I understand we cannot inspect every piece of cargo, we have a credible system in place to actively increase cargo inspections, and implement a system that would ultimately allow us to reopen U.S. ports to commerce, in the event of an attack.

Additionally, the bill also would require a report from the Coast Guard on the benefits of utilizing joint operational centers at United States seaports to implement area security plans. This report should incorporate lessons learned from the three centers that have already been established, such as ''Operation SeaHawk'' in Charleston, SC, and consider which security programs could be effectively fused into these joint operational centers. The Commandant of the Coast Guard would be required by this bill to report on the effectiveness of these centers for port security and determine if it would be beneficial and cost effective to establish centers in additional areas that pose a significant security risk, and to utilize them to implement area security plans.

The bill will also make sure that port security grants are reviewed and approved, as was mandated under the terms of the MTSA, and all grants are subject to the review of the Coast Guard Captain of the Port, the regional Maritime Administration representative, and other Transportation Security Administration security officials as well as other DHS security experts, before the grants are approved. This grant program is not open-ended, it is intended to help the private sector and State and municipal governments achieve compliance with Federally approved facility plans and area maritime security plans, and the changes to the statute will ensure that the grant program operates the way we intended it to operate.

The bill also requires the Maritime Administration and the State Department to evaluate existing foreign assistance programs to determine whether the existing aid programs can be utilized to help foreign nations achieve compliance with the international standard set for port security. The MTSA requires the Coast Guard to set up a mechanism to review the practices of foreign ports to ensure that they have implemented adequate security measures, and ultimately, they can take steps that would result in the closure of commerce from ports in noncompliance with international security standards. It is in the best interests of everyone potentially impacted by such a policy implication, if we review our foreign aid programs to determine whether aid can be used to implement the necessary security measures.

The bill also requires the Maritime Administration to work with the Federal Law Enforcement Training Center, FLETC, and other DHS port security agencies such as TSA, Coast Guard and Customs to determine how to supplement their training programs to include a greater familiarization with commercial maritime practices. Port security law enforcement is much different in the aftermath of September 11, and officials involved in regulation and policing shipping will now have to approach it from a different perspective, and to be able to identify anomalies and irregularities, in order to best focus our limited police resources over an immense volume of trade. It is my understanding that the Maritime Administration has been utilizing resources at the U.S. Merchant Marine Academy and working with FLETC to formalize port security training. I think that this change will help our Federal agencies bolster their existing training programs, and achieve a greater understanding of potential security issues that could arise, and will be a healthy addition to work already done by the Maritime Administration and FLETC.

The bill rewrites the DHS mandate to conduct research and development, and would require the Science Directorate within DHS to be more accountable to Congress for those actions they are taking to develop the types of technology necessary to address security at our seaports. Importantly, the bill also requires the Coast Guard to evaluate the security risks and policies very carefully of nuclear facilities on or adjacent to navigable waterways to ensure that we have security policies in place to prevent acts of terrorism from occurring from on or under navigable waterways. Most nuclear facilities are on or adjacent to navigable waterways, and I want the Coast Guard to exercise the highest degree of security in their treatment of these facilities and the threat posed as a result of maritime commerce or the proximity to navigable waterways.

Most importantly, this bill attempts to address the fundamental issue that will face the nation as we implement the MTSA—will sufficient funding be in place to assure that our ports and agencies will robustly pursue security, or we will have to rely on sham security programs, or efforts severely restricted by funding that result in de minimus or desultory security efforts. When the Senate and House conferenced on the port security bill in the fall of 2002, the Senate conferees insisted on establishing direct funding for port security programs through a user fee, identical to the airline security fee, which would help defray the significant costs for the new port security mandates. The Administration declined to dedicate any resources for port security, and they declined to support the Senate's user fee. Unable to reach agreement with the House conferees and the Administration, I agreed to authorize just the necessary funds, but the President was required by law to report to Congress within 6 months on a funding proposal to assist States and their ports in complying with security mandates for Federal security plans. That report has never been prepared and is 9 months overdue.

When the President's budget for FY 2004 came out, after the U.S. Coast Guard had estimated that it would take $7.4 billion of funding in order to comply with the port security requirements, there was no funding for port authority compliance in that year's budget resolution. I offered an amendment to the FY 2004 Budget Resolution which was unanimously accepted to add $1 billion to help defray the first year costs of port security—ultimately it was dropped from Conference. Two weeks later, the President was presented with a direct opportunity to fund port security programs: Congressional consideration of his emergency supplemental appropriations bill to pay for the war in Iraq and bolster homeland security. Again, the Administration funding request included no funding for port authorities to help them comply with the Federal mandate, so I offered an amendment to add $1 billion to the supplemental specifically to help ports meet the new security mandates. Despite unanimous approval in

the Senate 3 weeks earlier, the amendment was opposed by the Administration and defeated on the Senate floor on a straight party line vote.

Last year, I made another effort to address the port security funding inadequacies during consideration of the FY 2004 Homeland Security Appropriations bill. Again, the Administration proposed no funding for port security grants in their 2004 request, so I offered an amendment to the bill to direct $300 million specifically to port security grants without increasing the overall cost of the bill. The Administration opposed the funding increase, and the amendment was defeated largely along party lines with only three Republicans supporting the amendment.

Until this year's budget the President has not requested one dime specifically for port security. He has opposed efforts to mandate the funds be raised from the users of the system, and this year's budget request is for only $46 million. Despite opposition from the White House, Congress has directed appropriations that have resulted in grants of $450 million to ports to help ensure compliance with the Federal security mandates, and so I know that this issue is an area of major concern. Ultimately, the funding issues must be addressed, and this bill proposes a user fee to pay for the costs of compliance of port security. I had considered the possibility of authorizing the Administration to either generate funds for port security via a user fee, or alternatively mandate that funds be directly transferred from funds collected by Customs duties, but because of jurisdictional issues determined not to do so. The maritime industry supports this approach, and I am not opposed to this approach, but want only to ensure, that one way or another, we have the necessary funding in place to set up the system of port security that this nation deserves. Simply put, there is just too much at stake to hope that security emerges.

This bill seeks to continue the work to correct the security and terrorism prevention needs at our maritime borders. There is much to be done and there is a continued need for government and industry cooperation. This bill works on some of that need, yet the major need is funding for port security, which I hope that we will be able to address in the Senate very soon.

I ask unanimous consent the text of the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Maritime Transportation Security Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents
Sec. 2. In rem liability; enforcement; pier and wharf security costs.
Sec. 3. Maritime information.
Sec. 4. Intermodal cargo security plan.
Sec. 5. Joint operations center for port security.
Sec. 6. Maritime transportation security plan grants.
Sec. 7. Assistance for foreign ports.
Sec. 8. Federal and State commercial maritime transportation training.
Sec. 9. Port security research and development.
Sec. 10. Nuclear facilities in maritime areas.
Sec. 11. Transportation worker background investigation programs.
Sec. 12. Security service fee.
Sec. 13. Port security capital fund.

SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70120; and

(2) by inserting after section 70116 the following:

''§ 70117. In rem liability for civil penalties and certain costs

''(a) IN GENERAL.—Any vessel subject to the provisions of this chapter, which is used in violation of this chapter or any regulations issued hereunder shall be liable in rem for any civil penalty assessed pursuant to section 70120 and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(b) REIMBURSABLE COSTS.—

''(1) IN GENERAL.—Any vessel subject to the provisions of this chapter shall be liable in rem for the reimbursable costs incurred by any valid claimant related to implementation and enforcement of this chapter with respect to the vessel, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, and other persons to whom the management of the vessel at the port of supply is entrusted, and any fine or penalty relating to reporting requirements of the vessel or its cargo, crew, or passengers, and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(2) REIMBURSABLE COSTS DEFINED.—In this subsection the term 'reimbursable costs' means costs incurred by any service provider, including port authorities, facility or terminal operators, shipping agents, Federal, State, or local government agencies, or other person to whom the management of the vessel at the port of supply is entrusted, for—

''(A) vessel crew on board, or in transit to or from, the vessel under lawful order, including accommodation, detention, transportation, and medical expenses; and

''(B) required handling under lawful order of cargo or other items on board the vessel.

''§ 70118. Enforcement by injunction or withholding of clearance

''(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

''(b) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70120, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

''§ 70119. Security of piers and wharfs

''(a) IN GENERAL.—Notwithstanding any provision of law, the Secretary shall require any uncleared, imported merchandise remaining on the wharf or pier onto which it was unladen for more than 5 calendar days to be removed from the wharf or pier and deposited in the public stores or a general order warehouse, where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

''(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a).''.

(b) CONFORMING AMENDMENT FOR IN REM LIABILITY PROVISION IN CHAPTER 701.—Section 2 of the Act of June 15, 1917 (50 U.S.C. 192) is amended—

(1) by striking ''Act,'' each place it appears and inserting ''title,''; and

(2) by adding at the end the following:

''(d) IN REM LIABILITY.—Any vessel subject to the provisions of this title, which is used in violation of this title, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (c) and may be proceeded against in the United States district court for any district in which such vessel may be found.

''(e) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this title or of regulations issued hereunder, for cause shown.

''(f) WITHHOLDING OF CLEARANCE.—

''(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under subsection (c), the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

''(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary of the Department in which the Coast Guard is operating.''.

(c) EMPTY CONTAINERS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall review United States ports and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the practices and policies in place to secure shipment of empty containers. The Secretary shall include in the report recommendations with respect to whether additional regulations or legislation is necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

''70117. In rem liability for civil penalties and certain costs
''70118. Enforcement by injunction or withholding of clearance
''70119. Security of piers and wharfs
''70120. Civil penalty''.

SEC. 3. MARITIME INFORMATION.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary

plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) provide the identification of Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers;

(2) establish a timeline for coordinating the efforts of those Federal agencies in the collection of maritime information;

(3) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code;

(4) include recommendations on co-locating agency personnel in order to maximize expertise, minimize cost, and avoid redundancy;

(5) include recommendations on how to leverage information on commercial maritime information collected by the Department of the Navy, and identify any legal impediments that would prevent or reduce the utilization of such information outside the Department of the Navy;

(6) include recommendations on educating Federal officials on commercial maritime operations in order to facilitate the identification of security risks posed through commercial maritime transportation operations;

(7) include recommendations on how private sector resources could be utilized to collect or analyze information, along with a preliminary assessment of the availability and expertise of private sector resources;

(8) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinator while considering the need for nondisclosure of sensitive security information and the maximizing of security through the utilization of State, local, and private security personnel; and

(9) include recommendations on how the Department could help support a maritime information sharing and analysis center for the purpose of collecting information from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

SEC. 4. INTERMODAL CARGO SECURITY PLAN.

(a) IN GENERAL.—In addition to the plan submitted under section 3, within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the following:

(1) SECURE SYSTEMS OF TRANSPORTATION (46 U.S.C. 70116).—A plan, along with timelines, for the implementation of section 70116 of title 46, United States Code. The plan shall—

(A) provide an update on current efforts by the Department of Homeland Security could be incorporated into the certification process outlined in section 70116 to ensure the physical screening or inspection of imported cargo;

(B) provide a preliminary assessment of resources necessary to evaluate and certify ''Secure Systems of Transportation'', and the resources necessary to validate that ''Secure Systems of Transportation'' are operating in compliance with the certification requirements; and

(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate ''Secure Systems of Transportation''.

(2) RADIATION DETECTORS.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(3) NON-INTRUSIVE INSPECTION AT FOREIGN PORTS.—A report—

(A) on whether and to what extent foreign seaports have been willing to utilize screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(B) indicating which foreign ports may be willing to utilize their screening equipment for cargo exported for import into the United States, and a recommendation as to whether, and to what extent, United States cargo screening equipment will be required to be purchased and stationed at foreign seaports for inspection; and

(C) indicating to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports.

(4) COMPLIANCE WITH SECURITY STANDARD PROGRAMS.—A plan to establish, validate, and ensure compliance with security standards that would require ports, terminals, vessel operators, and shippers to adhere to security standards established by or consistent with the National Transportation System Security Plan. The plan shall indicate what resources will be utilized, and how they would be utilized, to ensure that companies operate in compliance with security standards.

(b) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Inspector General of the Department of Homeland Security shall evaluate the system used by the Department to target international intermodal containers for inspection and report the results of the evaluation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In conducting the evaluation, the Inspector General shall assess—

(A) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(B) the sources of information used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(C) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(D) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(E) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(2) INCREASE IN INSPECTIONS.—If the Inspector General determines in any of the reports required by paragraph (1) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then within 12 months after that report, the Secretary of Homeland Security shall double the number of containers subjected to intrusive or non-intrusive inspection at United States ports or to be shipped to the United States at foreign seaports.

(c) REPORT AND PLAN FORMATS.—The Secretary and the Inspector General may submit any plan or report required by this section in both classified and redacted formats if the Secretary determines that it is appropriate or necessary.

SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.

The Commandant of the United States Coast Guard shall report to Congress, within 180 days after the date of enactment of this Act, on the potential benefits of establishing joint operational centers for port security at certain United States seaports. The report shall consider the 3 Joint Operational Centers that have been established at Norfolk, Charleston, San Diego, and elsewhere and compare and contrast their composition and operational characteristics. The report shall consider—

(1) whether it would be beneficial to establish linkages to Federal maritime information systems established pursuant to section 70113 of title 46, United States Code;

(2) whether the operational centers could be beneficially utilized to track vessel movements under sections 70114 and 70115 of title 46, United States Code;

(3) whether the operational centers could be beneficial in the facilitation of intermodal cargo security programs such as the ''Secure Systems of Transportation Program'';

(4) the extent to which such operational centers could be beneficial in the operation of maritime area security plans and maritime area contingency response plans and in coordinating the port security activities of Federal, State, and local officials; and

(5) include recommendations for the number of centers and their possible location, as well as preliminary cost estimates for the operation of the centers.

SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of the need to address vulnerabilities in security subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.''.

SEC. 7. ASSISTANCE FOR FOREIGN PORTS.

Section 70109 of title 46, United States Code, is amended—

(1) by striking ''The Secretary'' in subsection (b) and inserting ''The Administrator of the Maritime Administration''; and

(2) by adding at the end the following:

''(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism

measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.''.

SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.

SEC. 9. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

''(i) RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

''(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

''(B) equipment to detect accurately explosives, chemical, or biological agents that could be used to commit terrorist acts against the United States;

''(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

''(D) improved tags and seal designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

''(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential terrorist threats that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

''(F) tools to mitigate the consequences of a terrorist act on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a terrorist action; and

''(G) applications to apply existing technologies from other areas or industries to increase overall port security.

''(2) IMPLEMENTATION OF TECHNOLOGY.—

''(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Director of the Science and Technology Directorate, in consultation with other Department of Homeland Security agencies with responsibility for port security, may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

''(i) testing of new detection and screening technologies;

''(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

''(iii) tools for responding to a terrorist threat or incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $35,000,000 for each of fiscal years 2005 through 2009 to carry out pilot projects under subparagraph (A).

''(3) ADMINISTRATIVE PROVISIONS.—

''(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Homeland Security shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

''(B) ACCOUNTING.—The Secretary of Homeland Security shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

''(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Homeland Security and the Secretary of Homeland Security for audit and examination.''.

(b) ANNUAL REPORT.—Within 30 days after the beginning of each fiscal year from fiscal year 2005 through fiscal year 2009, the Director of the Science and Technology Directorate shall submit a report describing its research that can be applied to port security to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The report shall—

(1) describe any port security-related research, including grants and pilot projects, that were conducted in the preceding fiscal year;

(2) describe the amount of Department of Homeland Security resources dedicated to research that can be applied to port security;

(3) describe the steps taken to coordinate with other agencies within the Department to ensure that research efforts are coordinated with port security efforts;

(4) describe how the results of the Department's research, as well as port security related research of the Department of Defense, will be implemented in the field, including predicted timetables;

(5) lay out the plans for research in the current fiscal year; and

(6) include a description of the funding levels for the research in the preceding, current, and next fiscal years.

SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.

(a) WATERWAYS.—Section 70103(b) is amended by adding at the end thereof the following:

''(5) WATERWAYS LOCATED NEAR NUCLEAR FACILITIES.—

''(A) IDENTIFICATION AND SECURITY EVALUATION.—The Secretary shall—

''(i) identify all nuclear facilities on, adjacent to, or in close proximity to navigable waterways that might be damaged by a transportation security incident;

''(ii) in coordination with the Secretary of Energy, evaluate the security plans of each such nuclear facility for its adequacy to protect the facility from damage or disruption from a transportation security incident originating in the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

''(B) RECTIFICATION OF DEFICIENCIES.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

''(C) REPORT.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

''(i) describing the results of the identification and evaluation required by subparagraph (A);

''(ii) describing the actions taken under subparagraph (B); and

''(iii) evaluating the technology utilized in the protection of nuclear facilities (including any such technology under development).''.

(b) VESSELS.—Section 70103(c)(3) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (F);

(2) by striking ''facility.'' in subparagraph (G) and inserting ''facility; and''; and

(3) by adding at the end the following:

''(H) establish a requirement, coordinated with the Department of Energy, for criminal background checks of all United States and foreign seamen employed on vessels transporting nuclear materials in the navigable waters of the United States.''.

SEC. 11. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities; and

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

SEC. 12. SECURITY SERVICE FEE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

"§ 70121. Security service fee

''(a) IN GENERAL.—

''(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to pay for the costs of providing port security services. The amount of the fees assessed and collected under this paragraph and paragraph (2) shall, in the aggregate, be sufficient to provide the services and levels of funding described in section 70122(c).

''(2) INTERNATIONAL TRANSSHIPMENT SECURITY FEE.—The Secretary shall also assess and collect an international maritime transshipment security user fee for providing security services for shipments of cargo and transportation of passengers entering the United States as part of an international transportation movement by water through Canadian or Mexican ports at the same rates as the fee imposed under paragraph (1). The fee authorized by this paragraph shall not be assessed or collected on transshipments from—

(A) Canada after the date on which the Secretary determines that an agreement between the United States and Canada, or

(B) Mexico after the date on which the Secretary determines that an agreement between the United States and Mexico,

has entered into force that will provide equivalent security regimes and international maritime security user fees of the United States and that country for transshipments between the countries.

''(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Secretary shall ensure that the fees are reasonably related to the costs of providing services rendered and the value of the benefit derived from the continuation of secure international maritime transportation.

''(c) IMPOSITION OF FEE.—

''(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary shall impose the fees under subsection (a) through the publication of notice in the Federal Register and begin collection of the fee within 60 days of the date of enactment of the Maritime Transportation Security Act of 2004, or as soon as possible thereafter. No fee shall be assessed more than once, and no fee shall be assessed for international ferry voyages.

''(2) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

''(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee under subsection (a), the Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both. The Secretary shall evaluate the fee annually to determine whether it is necessary and appropriate to pay the cost of activities and services, and shall adjust the amount of the fee accordingly.

''(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

''(d) ADMINISTRATION OF FEES.—

''(1) FEES PAYABLE TO SECRETARY.—All fees imposed and amounts collected under this section are payable to the Secretary.

''(2) INFORMATION.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

''(e) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(3) shall remain available until expended.

''(f) REFUNDS.—The Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

''(g) SUNSET.—The fees authorized by subsection (a) may not be assessed after September 31, 2009.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 2, is amended by adding at the end the following:

''70121. Security service fee''.

SEC. 13. PORT SECURITY CAPITAL FUND.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 11, is further amended by adding at the end the following:

"§ 70122. Port security capital fund.

''(a) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Port Security Capital Fund. There are appropriated to the Fund such sums as may be derived from the fees authorized by section 70121(a).

''(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security—

''(1) to provide financial assistance to port authorities, facility operators, and State and local agencies required to provide security services to defray capital investment in transportation security at port facilities in accordance with the provisions of this chapter;

''(2) to provide financial assistance to those entities required to provide security services to help ensure compliance with Federal area maritime security plans; and

''(3) to help defray the costs of Federal port security programs.

''(c) ALLOCATION OF FUNDS.—

''(1) FUNDS DERIVED FROM SECURITY FEES.—From amounts in the Fund attributable to fees collected under section 70121(a)(1) and (2)—

''(A) no less than $400,000,000 (or such amount as may be appropriate to reflect any modification of the fees under section 70121(c)(3)) shall be made available each fiscal year for grants under section 70107 to help ensure compliance with facility security plans or to help implement Area Maritime Transportation Security Plans;

''(B) funds shall be made available to the Coast Guard for the costs of implementing sections 70114 and 70115 fully by the end of fiscal year 2006;

''(C) funds shall be made available to the Coast Guard for the costs of establishing command and control centers at United States ports to help coordinate port security law enforcement activities and implementing Area Maritime Security Plans, and may be transferred, as appropriate, to port authorities, facility operators, and State and local government agencies to help them defray costs associated with port security services;

''(D) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of implementing cargo security programs, including the costs of certifying secure systems of transportation under section 70116;

''(E) funds shall be made available to the Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

''(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector), of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

''(2) TRANSSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

''(d) UTILIZATION REPORTS.—The Commandant of the Coast Guard and the Secretary of Homeland Security shall report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on utilization of amounts received from the Fund.

''(e) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to port sponsors from the Fund.''.

(f) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, as amended by section 11, is amended by adding at the end the following:

''70122. Port security capital fund''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 327—PROVIDING FOR A PROTOCOL FOR NONPARTISAN CONFIRMATION OF JUDICIAL NOMINEES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 327

Whereas, judicial nominations have long been the subject of controversy and delay in the United States Senate;

Whereas, in the past the controversy over judicial nominees has occurred when different political parties control the White House and the Senate;

Whereas, in the current Congress, even though the White House and the Senate are controlled by the same party, the controversy over judicial nominees continues and has reached a crisis point;